

From: DCardoza@foley.com
Sent: Monday, May 1, 2017 10:54 AM
To: 'Johnny Amaral'; Denny Rehberg; David Bernhardt; 'Smith, Ryan A.'
Subject: RE: Does anyone see a need for the call today?

Hi Johnny, was at the Dr for my Knee today and it ran over, but I see this was not a problem. I would like to talk with you however. Please give me a call when you get a chance. Dennis

From: Johnny Amaral [mailto:jamaral@westlandswater.org]
Sent: Monday, May 01, 2017 12:46 PM
To: Denny Rehberg; David Bernhardt; 'Smith, Ryan A.'; Cardoza, Dennis A.
Subject: Does anyone see a need for the call today?

I don't have anything on the agenda

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From: Denny Rehberg
Sent: Monday, May 1, 2017 9:54 AM
To: Johnny Amaral
CC: David Bernhardt; Smith, Ryan A.; Dennis Cardoza
Subject: Re: Does anyone see a need for the call today?

Nope. Would rather be fishing with Tom.

.....
Mercury.

Denny Rehberg
Co-Chairman
(US Congressman 2001-2013) 300 Tingey Street SE | Suite 202
Washington, DC | 20003
202.261.4000 office | [REDACTED] mobile
www.mercuryllc.com

On May 1, 2017, at 12:45 PM, Johnny Amaral <jamaral@westlandswater.org> wrote:

I don't have anything on the agenda

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From: Bernhardt, David L.
Sent: Monday, May 1, 2017 9:53 AM
To: 'Johnny Amaral'
Subject: RE: Does anyone see a need for the call today?

nope

From: Johnny Amaral [mailto:jamaral@westlandswater.org]
Sent: Monday, May 01, 2017 12:46 PM
To: Denny Rehberg; Bernhardt, David L.; Smith, Ryan A.; Dennis Cardoza
Subject: Does anyone see a need for the call today?

I don't have anything on the agenda

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From: Johnny Amaral

Sent: Monday, May 1, 2017 9:46 AM

To: Denny Rehberg; David Bernhardt; 'Smith, Ryan A.'; Dennis Cardoza

Subject: Does anyone see a need for the call today?

I don't have anything on the agenda

From: Bernhardt, David L.
Sent: Friday, April 28, 2017 8:07 AM
To: 'Tom Birmingham'
Subject: RE: Congratulations

Tom: Thanks for the kind email.

David

From: Tom Birmingham [mailto:tbirmingham@westlandswater.org]
Sent: Friday, April 28, 2017 10:28 AM
To: Bernhardt, David L.
Subject: Congratulations

David,

I hope that I am not too late to be among the first to congratulate you on your nomination. The President could not have picked a more qualified person to serve as Deputy Secretary of the Interior. Thank you for your willingness to make the sacrifices concomitant with accepting this position.

I look forward to a day, soon, when I will have to address you as Mr. Secretary.

Tom

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From: Jean Sagouspe
Sent: Friday, April 28, 2017 8:02 AM
To: 'David Houston'; 'Denny Rehberg'; 'Birmingham Tom'; 'Bernhardt David Longly'
Subject: RE:

Exciting !

From: David Houston [mailto:]
Sent: Friday, April 28, 2017 7:57 AM
To: 'Denny Rehberg' <DRehberg@mercuryllc.com>; 'Sagouspe Jean' []; 'Birmingham Tom' <tbirmingham@westlandswater.org>; 'Bernhardt David Longly' <dbernhardt@bhfs.com>
Subject: RE:

Excellent choice.

From: Denny Rehberg [<mailto:DRehberg@mercuryllc.com>]
Sent: Friday, April 28, 2017 7:42 AM
To: Sagouspe Jean < []>; Birmingham Tom <tbirmingham@westlandswater.org>; Houston David []; Bernhardt David Longly <dbernhardt@bhfs.com>
Subject:

Yahoo!!!! 🐔 **President Donald J. Trump Announces Intent to Nominate Personnel to Key Administration Posts**

President Donald J. Trump today announced his intent to nominate the following key additions to his Administration:

David Bernhardt of Virginia to be Deputy Secretary of the Interior. Mr. Bernhardt is a native of Rifle, Colorado. He is an avid hunter and fisherman. He recently served on the Board of Game and Inland Fisheries for the Commonwealth of Virginia. He has previously served as the United States Commissioner to the International Boundary Commission, U.S. and Canada. From 2001 and 2009, he held several positions within the Department of the Interior, including, after unanimous confirmation, serving as Solicitor, which is the Interior's third ranking official and chief legal officer. Currently, Mr. Bernhardt chairs the natural resource law practice at Brownstein, Hyatt Farber and Schreck, LLP. Mr. Bernhardt earned a B.A. from the University of Northern Colorado. He graduated with honors from the George Washington University National Law Center and is admitted to various state and federal court bars. He is married to Gena Bernhardt. They have two children, and reside in Arlington, Virginia.

Co-Chairman
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From: David Houston
Sent: Friday, April 28, 2017 7:57 AM
To: 'Denny Rehberg'; 'Sagouspe Jean'; 'Birmingham Tom'; 'Bernhardt David Longly'
Subject: RE:

Excellent choice.

From: Denny Rehberg [mailto:DRehberg@mercuryllc.com]
Sent: Friday, April 28, 2017 7:42 AM
To: Sagouspe Jean <[REDACTED]>; Birmingham Tom <tbirmingham@westlandswater.org>; Houston David <[REDACTED]>; Bernhardt David Longly <dbernhardt@bhfs.com>
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From: Jean Sagouspe
Sent: Friday, April 28, 2017 7:49 AM
To: 'Denny Rehberg'; 'Birmingham Tom'; 'Houston David'; 'Bernhardt David Longly'
Subject: RE:

Awesome !

From: Denny Rehberg [mailto:DRehberg@mercuryllc.com]
Sent: Friday, April 28, 2017 7:42 AM
To: Sagouspe Jean <[REDACTED]org>; Birmingham Tom <tbirmingham@westlandswater.org>; Houston David [REDACTED]; Bernhardt David Longly <dbernhardt@bhfs.com>
Subject:

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From: Johnny Amaral
Sent: Friday, April 28, 2017 7:45 AM
To: Ryan A. 'Smith; David Bernhardt
Subject: Congrats Mr Bernhardt

Can we have a 5 minute call today sometime?

Best,

Johnny Amaral
Deputy General Manager - External Affairs
Westlands Water District

From: Denny Rehberg
Sent: Friday, April 28, 2017 7:42 AM
To: Sagouspe Jean; Birmingham Tom; Houston David; Bernhardt David Longly
Subject:

Yahoo!!!! 👍 **President Donald J. Trump Announces Intent to Nominate Personnel to Key Administration Posts**

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From: Tom Birmingham
Sent: Friday, April 28, 2017 7:28 AM
To: 'Bernhardt, David L.'
Subject: Congratulations

David,

I hope that I am not too late to be among the first to congratulate you on your nomination. The President could not have picked a more qualified person to serve as Deputy Secretary of the Interior. Thank you for your willingness to make the sacrifices concomitant with accepting this position.

I look forward to a day, soon, when I will have to address you as Mr. Secretary.

Tom

From: Karen Clark
Sent: Thursday, April 27, 2017 10:01 AM
To: 'Gayle Holman'
Subject: RE: Cancellation of Call Tomorrow

I just got a text from Johnny saying Tom wanted to cancel it. Maybe he's had enough political talk since he's been back in DC all week.

~Karen

Karen Clark
Executive Assistant to Thomas W. Birmingham
Westlands Water District
P.O. Box 6056
Fresno, CA 93703
(c) [REDACTED]
(f) 559.241.6277
Email: kclark@westlandswater.org

From: Gayle Holman [mailto:gholman@westlandswater.org]
Sent: Thursday, April 27, 2017 9:57 AM
To: 'Karen Clark'
Subject: RE: Cancellation of Call Tomorrow

Wow, thank you. I'm surprised Tom cancelled because last Friday he said we'd still have the call. Helps with my Friday morning where I plan to be on the westside anyway.

Thanks Karen,

Gayle

Gayle Holman
Public Affairs Representative
Westlands Water District
3130 N. Fresno Street
P.O. Box 6056
Fresno, CA 93703-6056
(559) 241-6233 (direct)
(559) [REDACTED] (cell)
(559) 241-6277 (fax)
gholman@westlandswater.org

From: Karen Clark [mailto:kclark@westlandswater.org]
Sent: Thursday, April 27, 2017 9:13 AM
To: 'Alison MacLeod' <amacleod@ka-pow.com>; 'Carmela McHenry' <cmchenry@ka-pow.com>; 'Carolyn Jensen' <cjensen@ka-pow.com>; Catherine Karen <ckaren@sidley.com>; Dan Pope <dpope@westlandswater.org>; 'David Bernhardt' <dbernhardt@BHFS.com>; Dennis Cardoza <dcardoza@foley.com>; Denny Rehberg <drehberg@mercuryllc.com>; 'Ed Manning' <emanning@ka-pow.com>; 'Gayle Holman' <gholman@westlandswater.org>; Jennifer Walsh <jwalsh@foley.com>; Johnny Amaral <jamaral@westlandswater.org>; 'Mike Burns' <mburns@ka-pow.com>; Philip Williams <pwilliams@westlandswater.org>; Sheila Greene <sgreene@westlandswater.org>; Shelley Ostrowski <sostrowski@westlandswater.org>

Subject: Cancellation of Call Tomorrow

Importance: High

All,

We will not have a PR/Legislation Conference call tomorrow (April 28) . Hope everyone has a good weekend.

Sincerely,

~Karen

Karen Clark

Executive Assistant to Thomas W. Birmingham

Westlands Water District

P.O. Box 6056

Fresno, CA 93703

(c) [REDACTED]

(f) 559.241.6277

Email: kclark@westlandswater.org

From: Gayle Holman
Sent: Thursday, April 27, 2017 9:57 AM
To: 'Karen Clark'
Subject: RE: Cancellation of Call Tomorrow

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Public Affairs Representative
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P.O. Box 6056
Fresno, CA 93703-6056
(559) 241-6233 (direct)
(559) [REDACTED] (cell)
(559) 241-6277 (fax)
gholman@westlandswater.org

From: Karen Clark [mailto:kclark@westlandswater.org]
Sent: Thursday, April 27, 2017 9:13 AM
To: 'Alison MacLeod' <amacleod@ka-pow.com>; 'Carmela McHenry' <cmchenry@ka-pow.com>; 'Carolyn Jensen' <cjensen@ka-pow.com>; Catherine Karen <ckaren@sidley.com>; Dan Pope <dpope@westlandswater.org>; 'David Bernhardt' <dbernhardt@BHFS.com>; Dennis Cardoza <dcardoza@foley.com>; Denny Rehberg <drehberg@mercuryllc.com>; 'Ed Manning' <emanning@ka-pow.com>; 'Gayle Holman' <gholman@westlandswater.org>; Jennifer Walsh <jwalsh@foley.com>; Johnny Amaral <jamaral@westlandswater.org>; 'Mike Burns' <mburns@ka-pow.com>; Philip Williams <pwilliams@westlandswater.org>; Sheila Greene <sgreene@westlandswater.org>; Shelley Ostrowski <sostrowski@westlandswater.org>
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~Karen
Karen Clark
Executive Assistant to Thomas W. Birmingham
Westlands Water District
P.O. Box 6056
Fresno, CA 93703
(c) [REDACTED]
(f) 559.241.6277
Email: kclark@westlandswater.org

From: Karen Clark

Sent: Thursday, April 27, 2017 9:14 AM

To: 'Alison MacLeod'; 'Carmela McHenry'; 'Carolyn Jensen'; Catherine Karen; Dan Pope; 'David Bernhardt'; Dennis Cardoza; Denny Rehberg; 'Ed Manning'; 'Gayle Holman'; Jennifer Walsh; Johnny Amaral; 'Mike Burns'; Philip Williams; Sheila Greene; Shelley Ostrowski

Subject: Cancellation of Call Tomorrow

Importance: High

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We will not have a PR/Legislation Conference call tomorrow (April 28) . Hope everyone has a good weekend.

Sincerely,

~Karen

Karen Clark

Executive Assistant to Thomas W. Birmingham

Westlands Water District

P.O. Box 6056

Fresno, CA 93703

(c) [REDACTED]

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Email: kclark@westlandswater.org

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Sent: Thursday, April 27, 2017 9:14 AM

To: 'Alison MacLeod'; 'Carmela McHenry'; 'Carolyn Jensen'; Catherine Karen; Dan Pope; 'David Bernhardt'; Dennis Cardoza; Denny Rehberg; 'Ed Manning'; 'Gayle Holman'; Jennifer Walsh; Johnny Amaral; 'Mike Burns'; Philip Williams; Sheila Greene; Shelley Ostrowski

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Executive Assistant to Thomas W. Birmingham

Westlands Water District

P.O. Box 6056

Fresno, CA 93703

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From: Karen Clark

Sent: Thursday, April 27, 2017 9:13 AM

To: 'Alison MacLeod'; 'Carmela McHenry'; 'Carolyn Jensen'; Catherine Karen; Dan Pope; 'David Bernhardt'; Dennis Cardoza; Denny Rehberg; 'Ed Manning'; 'Gayle Holman'; Jennifer Walsh; Johnny Amaral; 'Mike Burns'; Philip Williams; Sheila Greene; Shelley Ostrowski

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Sincerely,

~Karen

Karen Clark

Executive Assistant to Thomas W. Birmingham

Westlands Water District

P.O. Box 6056

Fresno, CA 93703

(c) [REDACTED]

(f) 559.241.6277

Email: kclark@westlandswater.org

From: Smith, Ryan A.

Sent: Thursday, April 27, 2017 7:53 AM

To: Johnny Amaral; Bernhardt, David L.; Tom Birmingham; 'Shelley Ostrowski'; 'Philip Williams'

Subject:

Bill passed with our amendment. All other amendments failed.

Huffman took it on the chin.

Sent from my Verizon, Samsung Galaxy smartphone

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From: Johnny Amaral

Sent: Wednesday, April 19, 2017 3:17 PM

To: Denny Rehberg; 'Smith, Ryan A.'; David Bernhardt; Dennis Cardoza

Subject: Team breakfast next week on Wednesday morning.

Can you make it?

From: Johnny Amaral

Sent: Monday, April 3, 2017 9:18 AM

To: Dennis Cardoza; David Bernhardt; 'Smith, Ryan A.'; Denny Rehberg

Subject: no call today

Sorry for the short notice. Does anyone know any details about the Secretary's trip to CA? Dates specifically

From: Johnny Amaral

Sent: Monday, March 20, 2017 9:00 AM

To: David L. Bernhardt; Ryan A. ' 'Smith; Denny Rehberg; Dennis Cardoza

Subject: No call today

I'm in an airplane

Best,

Johnny Amaral

Deputy General Manager - External Affairs

Westlands Water District

From: Bernhardt, David L.
Sent: Tuesday, March 14, 2017 11:16 AM
To: Johnny Amaral
Subject: Re: Westlands Grower Conf Call - Wed., March 15, 7:30 AM

Thanks

David Bernhardt

On Mar 14, 2017, at 2:12 PM, Johnny Amaral <jamaral@westlandswater.org> wrote:

In case you want to call in

From: Gayle Holman, Public Affairs Rep [<mailto:gholman@westlandswater.org>]
Sent: Tuesday, March 14, 2017 9:28 AM
To: jamaral@westlandswater.org
Subject: Westlands Grower Conf Call - Wed., March 15, 7:30 AM

. .



Westlands Water District

3130 N. Fresno Street, P.O. Box 6056, Fresno, California 93703-6056, (559) 224-1523, FAX (559) 241-6277

GROWER CALL TOMORROW - WEDNESDAY

~~~~~  
**THERE WILL BE A GROWER CALL WEDNESDAY, MARCH 15, 7:30 AM**

### **Conference Call with Water Users**

General Manager Tom Birmingham will hold a conference call **WEDNESDAY** that is open to all growers in the District. Mr. Birmingham will discuss CVP project operations, Potential loss of Rescheduled Water, and District Forecast of Allocation. District water users are encouraged to participate, share their thoughts and ask questions.

The call will be **Wednesday, March 15, 7:30 a.m.** The dial-in information is as follows:

Dialing-in to the Conference:

1. Use your phone to dial your toll-free TeleConference number:

**1-888** [REDACTED]

2. After the prompt, enter your **seven-digit** TeleConference code:

[REDACTED]

After you enter your code, you will experience either silence or music until the Host enters the call.

If you have any questions, please call Gayle Holman at: (559) 241-6233 (office) or (559) [REDACTED]-[REDACTED] (cell) or email: [gholman@westlandswater.org](mailto:gholman@westlandswater.org).

# # #

Westlands Water District, 3130 N. Fresno Street, P.O. Box 6056, Fresno, CA 93703-6056

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**From:** Johnny Amaral

**Sent:** Tuesday, March 14, 2017 11:13 AM

**To:** Mike Burns; 'Heidi Pyle'; Ed Manning; 'Carolyn Jensen'; David Bernhardt; 'Smith, Ryan A.'; Dennis Cardoza; Denny Rehberg

**Subject:** FW: Westlands Grower Conf Call - Wed., March 15, 7:30 AM

In case you want to call in


---

**From:** Gayle Holman, Public Affairs Rep [mailto:gholman@westlandswater.org]

**Sent:** Tuesday, March 14, 2017 9:28 AM

**To:** jamaral@westlandswater.org

**Subject:** Westlands Grower Conf Call - Wed., March 15, 7:30 AM



**Westlands Water District**  
3130 N. Fresno Street, P.O. Box 6056, Fresno, California 93703-6056, (559) 224-1523, FAX (559) 241-6277

**GROWER CALL TOMORROW - WEDNESDAY**  
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THERE WILL BE A GROWER CALL WEDNESDAY, MARCH 15, 7:30 AM

Conference Call with Water Users

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████████

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If you have any questions, please call Gayle Holman at: (559) 241-6233 (office) or (559) █████-█████ (cell) or email: gholman@westlandswater.org.

#

Westlands Water District, 3130 N. Fresno Street, P.O. Box 6056, Fresno, CA 93703-6056

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Sent by gholman@westlandswater.org in collaboration with



Try it free today

From: Johnny Amaral
Sent: Wednesday, March 8, 2017 2:40 PM
To: Bernhardt, David L.
Subject: Re: Give me a call 292 [REDACTED]

Just left a voicemail

Best,

Johnny Amaral
Deputy General Manager - External Affairs
Westlands Water District

> On Mar 8, 2017, at 1:34 PM, Bernhardt, David L. <DBernhardt@BHFS.com> wrote:

>

>

>

> David Bernhardt

>

>

>

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From: Bernhardt, David L.
Sent: Wednesday, March 8, 2017 2:34 PM
To: Johnny Amaral
Subject: Give me a call 292 [REDACTED]

David Bernhardt

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From: Bernhardt, David L.

Sent: Sunday, March 5, 2017 8:04 PM

To: Johnny Amaral

Subject: An End to California's Drought Isn't Cut and Dried - The Wall Street Journal.

I thought you would be interested in the following story from The Wall Street Journal.

An End to California's Drought Isn't Cut and Dried

<https://www.wsj.com/articles/an-end-to-californias-drought-isnt-cut-and-dried-1488537007>

Download the Wall Street Journal app here: [WSJ](#).

202 

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From: Johnny Amaral

Sent: Friday, February 24, 2017 8:00 AM

To: Ryan A. ' 'Smith; Denny Rehberg; Dennis Cardoza; David Bernhardt; Catherine Karen; Mike Burns; Ed Manning; Carolyn Jensen

Subject: Reminder...no calls today

Best,

Johnny Amaral

Deputy General Manager - External Affairs

Westlands Water District

From: Johnny Amaral

Sent: Monday, February 20, 2017 7:35 AM

To: Ryan A. ' 'Smith; David Bernhardt; Denny Rehberg; Dennis Cardoza; Catherine Karen

Subject: No call today

Best,

Johnny Amaral

Deputy General Manager - External Affairs

Westlands Water District

From: Johnny Amaral
Sent: Wednesday, February 15, 2017 7:51 AM
To: Bernhardt, David L.
Subject: Re: John Destefano

Yes. I know him well. For years. What's up?

Best,

Johnny Amaral
Deputy General Manager - External Affairs
Westlands Water District

> On Feb 15, 2017, at 6:48 AM, Bernhardt, David L. <DBernhardt@BHFS.com> wrote:

>

> Do you John Destefano who used to work for Boehner? He is now the head of WH personnel.

>

> David Bernhardt

>

>

>

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From: Bernhardt, David L.
Sent: Wednesday, February 15, 2017 7:48 AM
To: Johnny Amaral
Subject: John Destefano

Do you John Destefano who used to work for Boehner? He is now the head of WH personnel.

David Bernhardt

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From: Michael Burns

Sent: Monday, February 13, 2017 8:46 PM

To: Johnny Amaral (jamaral@westlandswater.org); Smith, Ryan A.; David Bernhardt

Subject: article on drainage

MERCED SUN-STAR

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POLITICS & GOVERNMENT

FEBRUARY 13, 2017 3:11 PM

California farmers hope Congress and Trump team can deliver irrigation drain deal



Work goes on next to a cotton field in the Westlands Water District, near Five Points, in October 2009. **John Walker** Fresno Bee

BY MICHAEL DOYLE

mdoyle@mcclatchydc.com

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WASHINGTON

The political terrain appears favorable for a mega-million-dollar irrigation drainage deal, with Congress still fully in Republican hands and California's sprawling Westlands Water District with influential allies.

But there are complications. One is a legal cloud over a neighboring water district. The other comes with the state's two Democratic senators, who remain uncommitted.

Legislation putting the drainage deal into effect could be introduced at any time.

ADVERTISING

“I think I have the support of leadership,” Rep. David Valadao, R-Hanford, said in an interview.

But with that legislation will come a [Capitol Hill fight](#).

“It’s likely they have the votes to pass it in the House,” environmentalist Patricia Schifferle, of the firm Pacific Advocates, said Monday, “but this is a cleanup they should be paying for, not you or I.”

Rep. Jerry McNerney, D-Stockton, on Monday added that the deal is “still nothing more than a gift to the Westlands Water District.”

Valadao represents Westlands, the Rhode Island-sized, 600,000-acre water district that’s the largest of its kind in the United States. A member of the powerful House Appropriations Committee, Valadao previously authored Westlands-related irrigation drainage legislation approved [by a House of Representatives panel](#) last November. He said his new bill will be “pretty much the same” as last year’s.

The legislation would relieve Westlands of its roughly \$375 million debt to the federal government, while the government would be freed of its obligation to build an expensive drainage system to haul away tainted irrigation water.

“We believe it’s a good deal for both sides,” Johnny Amaral, Westlands’ deputy general manager, said Monday.

But the magnitude of the irrigation drainage plan and Westlands’ own political clout ensure controversy, potentially aggravated by issues outside of Westlands’ control involving up to three smaller districts that serve 102,000 acres in western Fresno and Merced counties.

IT IS MY HOPE THAT CONGRESS, THE TRUMP ADMINISTRATION AND THE LOCAL WATER DISTRICTS WORK TOGETHER TO REACH A COMPREHENSIVE RESOLUTION TO THE DRAINAGE ISSUE IN THE SAN LUIS UNIT. Rep. Jim Costa, D-Fresno

The Interior Department’s Office of Inspector General and the FBI have been looking into unspecified issues with the Panoche, San Luis and/or the Pacheco water districts, officials revealed ambiguously in public hearings last year.

Last month, in a move that may or may not have been related, California State Controller Betty T. Yee assailed “numerous deficiencies” in the Panoche district’s accounting and administrative controls.

Panoche’s problems included “several instances of possible violations” of state law, including personal loans to district employees and use of district credit cards for personal expenses, Yee

reported. Yee also noted the district has “taken substantial corrective actions.” The report did not criticize the San Luis or Pacheco districts.

The Panoche problems have stirred speculation in San Joaquin Valley political circles and slowed the federal government’s final sign-off on a deal similar to that the Obama administration achieved with Westlands. While the Westlands irrigation drainage deal can proceed independently, Panoche’s documented problems may provide ammunition to Westlands’ frequent critics.

“I know there are people that will want to connect them,” Valadao acknowledged.

The office of Rep. Jim Costa, D-Fresno, who supports the irrigation drainage settlements, has unsuccessfully sought details of the Office of Inspector General’s and FBI’s involvement with any of the northerly water districts. Lauren Horwood, a spokesperson for the U.S. Attorney’s Office for the Eastern District of California, said Monday that she “cannot confirm or deny an investigation.”

John Bennett, board president of the Panoche district, said Monday that “as far as any ongoing investigations, unfortunately we aren’t allowed to comment whether or not there are any, or their status,” while also adding that the district “strongly supports” an irrigation settlement.

“The outcome of the state controller’s audit does not remove the obligation that the federal government has to provide drainage service to the San Luis Unit of the Central Valley Project,” Costa stressed Monday. “Since 1964, the federal government has failed to meet its obligation to the individuals and communities served by (the) water districts.”

The [drainage was promised](#) beginning with the legislation authorizing the Central Valley Project’s San Luis Unit, but only about 82 of the planned 188 miles were built before the drain terminated prematurely, for a variety of reasons, at Kesterson Reservoir in Merced County.

Without drainage, otherwise fertile soil becomes poisoned by a buildup of salty water. The accumulation of selenium-tainted groundwater at Kesterson killed and deformed thousands of birds in the mid-1980s, and the catastrophe spawned considerable litigation.

In 2012, for instance, Westlands lobbyist David Bernhardt was one of the named lawyers who signed on to a \$1 billion lawsuit filed against the federal government in the U.S. Court of Federal Claims. The suit sought damages for the Bureau of Reclamation’s failure to build an irrigation drain serving the Westlands-area farmers.

A judge dismissed the [lawsuit in 2013](#), after which Bernhardt and other Westlands attorneys filed an appeal that is now on hold. Bernhardt, who dropped Westlands as a lobbying client late last year, has since been identified in news accounts and private conversations as a top contender for the number two position at the Interior Department.

Bernhardt was also one of the presumed targets of a proposed House amendment last year that would have blocked any federal official who had worked or lobbied for Westlands in the past 10 years from overseeing implementation of the big irrigation drainage deal. The amendment, by Rep. Jared Huffman, D-Santa Rosa, failed by voice vote.

As part of the deal that would be implemented by Valadao's legislation, Westlands would assume responsibility for managing the irrigation drainage. The district would receive favorable new water contracts, and retire 100,000 of its 600,000 acres.

Michael Doyle: [202-383-6153](tel:202-383-6153), [@MichaelDoyle10](https://twitter.com/MichaelDoyle10)

Read more here: <http://www.mercedsunstar.com/news/politics-government/article132509034.html#storylink=cpy>

Michael Burns
KP PUBLIC AFFAIRS
1201 K Street, Suite 800, Sacramento, CA 95814
p. 916.448.2162 m. [REDACTED] f. 916.448.4923
w. www.ka-pow.com e. mburns@ka-pow.com

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From: Johnny Amaral
Sent: Monday, February 13, 2017 11:33 AM
To: Ryan A. 'Smith; David Bernhardt; Denny Rehberg
Subject: As predicted, here comes the blame game

<http://www.mercurynews.com/2017/02/12/oroville-dam-feds-and-state-officials-ignored-warnings-12-years-ago/>

Best,

Johnny Amaral
Deputy General Manager - External Affairs
Westlands Water District

From: Johnny Amaral
Sent: Thursday, February 9, 2017 12:28 AM
To: David L. Bernhardt
Subject: FYI

http://www.fresnobee.com/news/politics-government/politics-columns-blogs/political-notebook/article131319144.html#emlnl=Afternoon_Newsletter

Best,

Johnny Amaral
Deputy General Manager - External Affairs
Westlands Water District

From: Smith, Ryan A.
Sent: Tuesday, February 7, 2017 7:04 AM
To: Tom Birmingham
CC: Bernhardt, David L.
Subject:

Tom,

I understand that you may have been looking for me this morning. If you still are, you can reach me at the number below or on my cell at (202) [REDACTED].

Ryan Smith
Shareholder
Brownstein Hyatt Farber Schreck
1155 F. Street N.W., Suite 1200
Washington, DC 20004
Direct (202)747-0507

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From: Johnny Amaral

Sent: Monday, February 6, 2017 10:03 AM

To: David Bernhardt; Dennis Cardoza; Catherine Karen; 'Smith, Ryan A.'; Denny Rehberg

Subject: no call today

From: Johnny Amaral
Sent: Friday, February 3, 2017 6:44 AM
To: Emmerson, Catherine
CC: Denny Rehberg; Bernhardt, David L.; Dennis Cardoza
Subject: Re: Calls today

Correct

Best,

Johnny Amaral
Deputy General Manager - External Affairs
Westlands Water District

On Feb 3, 2017, at 5:20 AM, Emmerson, Catherine <cemmerson@sidley.com> wrote:

Hi,

I saw that the 10 am and was cancelled for today. Am I correct to assume the 10:30 is cancelled as well?

Thank you,
Catherine

Sent with BlackBerry Work (www.blackberry.com)

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From: Emmerson, Catherine
Sent: Friday, February 3, 2017 6:21 AM
To: Johnny Amaral; 'Denny Rehberg'; 'Bernhardt, David L.'; 'Dennis Cardoza'
Subject: Calls today

Hi,
I saw that the 10 am and was cancelled for today. Am I correct to assume the 10:30 is cancelled as well?
Thank you,
Catherine

Sent with BlackBerry Work (www.blackberry.com)

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immediately.

From: Johnny Amaral
Sent: Monday, January 30, 2017 9:32 PM
To: Bernhardt, David L.
Subject: Re: What time do you depart D.C. Tomorrow?

Ok. Will call you in the morning

Best,

Johnny Amaral
Deputy General Manager - External Affairs
Westlands Water District

> On Jan 30, 2017, at 7:44 PM, Bernhardt, David L. <DBernhardt@BHFS.com> wrote:

>

> Around 4

>

> 202 [REDACTED]

>

>> On Jan 30, 2017, at 10:05 PM, Johnny Amaral <jamaral@westlandswater.org> wrote:

>>

>>

>>

>>

>> Best,

>>

>> Johnny Amaral

>> Deputy General Manager - External Affairs

>> Westlands Water District

>>

>>

>

>

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From: Bernhardt, David L.
Sent: Monday, January 30, 2017 8:44 PM
To: Johnny Amaral
Subject: Re: What time do you depart D.C. Tomorrow?

Arround 4

202 [REDACTED]

> On Jan 30, 2017, at 10:05 PM, Johnny Amaral <jamaral@westlandswater.org> wrote:

>

>

>

>

> Best,

>

> Johnny Amaral

> Deputy General Manager - External Affairs

> Westlands Water District

>

>

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From: Johnny Amaral
Sent: Monday, January 30, 2017 8:06 PM
To: David L. Bernhardt
Subject: What time do you depart D.C. Tomorrow?

Best,

Johnny Amaral
Deputy General Manager - External Affairs
Westlands Water District

From: Denny Rehberg
Sent: Monday, January 30, 2017 10:45 AM
To: Johnny Amaral
CC: David Bernhardt; Dennis Cardoza; Catherine Karen; Smith, Ryan A.
Subject: Re: No call today

Got it

.....
Mercury.

Denny Rehberg
Co-Chairman
(US Congressman 2001-2013) 300 Tingey Street SE | Suite 202
Washington, DC | 20003
202.261.4000 office | [REDACTED] mobile
www.mercuryllc.com

On Jan 30, 2017, at 10:41 AM, Johnny Amaral <jamaral@westlandswater.org> wrote:

See you on Wednesday

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From: Johnny Amaral

Sent: Monday, January 30, 2017 10:41 AM

To: David Bernhardt; Dennis Cardoza; Denny Rehberg; Catherine Karen; 'Smith, Ryan A.'

Subject: No call today

See you on Wednesday

From: Johnny Amaral
Sent: Friday, January 27, 2017 5:52 PM
To: David L. Bernhardt; Ed Manning; Mike Burns; Thomas Birmingham
Subject: FYI

This will be entertaining...

<https://www.facebook.com/devingnunesca/posts/1737653799860173>

Best,

Johnny Amaral
Deputy General Manager - External Affairs
Westlands Water District

From: Johnny Amaral
Sent: Thursday, January 26, 2017 10:13 AM
To: Bernhardt, David L.
Subject: Re: youre coming out next week right?

Absolutely you need to be there. I just wanted to make sure

Best,

Johnny Amaral
Deputy General Manager - External Affairs
Westlands Water District

On Jan 26, 2017, at 9:09 AM, Bernhardt, David L. <DBernhardt@BHFS.com> wrote:

Yes. Should I not?

David Bernhardt

On Jan 26, 2017, at 11:31 AM, Johnny Amaral <jamaral@westlandswater.org> wrote:

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From: Bernhardt, David L.
Sent: Thursday, January 26, 2017 10:10 AM
To: Johnny Amaral
Subject: Re: youre coming out next week right?

Yes. Should I not?

David Bernhardt

On Jan 26, 2017, at 11:31 AM, Johnny Amaral <jamaral@westlandswater.org> wrote:

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From: Johnny Amaral

Sent: Thursday, January 26, 2017 9:31 AM

To: David Bernhardt

Subject: youre coming out next week right?

From: DCardoza@foley.com
Sent: Friday, January 13, 2017 7:45 AM
To: Johnny Amaral
CC: Ryan A. 'Smith'; Denny Rehberg; David Bernhardt; Catherine Karen
Subject: Re: Cancellation of Call Tomorrow

Thanks Johnny

Sent from my iPhone

Please excuse any auto correct errors

On Jan 13, 2017, at 9:11 AM, Johnny Amaral <jamaral@westlandswater.org<<mailto:jamaral@westlandswater.org>>> wrote:

I assume you all saw this. No pre call either

Best,

Johnny Amaral
Deputy General Manager - External Affairs
Westlands Water District

Begin forwarded message:

From: Karen Clark <kclark@westlandswater.org<<mailto:kclark@westlandswater.org>>>
Date: January 12, 2017 at 8:17:14 PM PST
To: 'Alison MacLeod' <amacleod@ka-pow.com<<mailto:amacleod@ka-pow.com>>>, 'Carmela McHenry' <cmchenry@ka-pow.com<<mailto:cmchenry@ka-pow.com>>>, 'Carolyn Jensen' <cjensen@ka-pow.com<<mailto:cjensen@ka-pow.com>>>, Catherine Karen <ckaren@sidley.com<<mailto:ckaren@sidley.com>>>, Dan Pope <dpope@westlandswater.org<<mailto:dpope@westlandswater.org>>>, 'David Bernhardt' <dbernhardt@BHFS.com<<mailto:dbernhardt@BHFS.com>>>, Dennis Cardoza <dcardoza@foley.com<<mailto:dcardoza@foley.com>>>, Denny Rehberg <drehberg@mercuryllyc.com<<mailto:drehberg@mercuryllyc.com>>>, 'Ed Manning' <emanning@ka-pow.com<<mailto:emanning@ka-pow.com>>>, 'Gayle Holman' <gholman@westlandswater.org<<mailto:gholman@westlandswater.org>>>, Jennifer Walsh <jwalsh@foley.com<<mailto:jwalsh@foley.com>>>, Johnny Amaral <jamaral@westlandswater.org<<mailto:jamaral@westlandswater.org>>>, 'Mike Burns' <mburns@ka-pow.com<<mailto:mburns@ka-pow.com>>>, Philip Williams <pwilliams@westlandswater.org<<mailto:pwilliams@westlandswater.org>>>, Sheila Greene <sgreene@westlandswater.org<<mailto:sgreene@westlandswater.org>>>, Shelley Ostrowski <sostrowski@westlandswater.org<<mailto:sostrowski@westlandswater.org>>>
Subject: Cancellation of Call Tomorrow

All,

We will not have a call tomorrow (January 13). Hope everyone has a good weekend.

Best,

~Karen
Karen Clark
Executive Assistant to Thomas W. Birmingham
Westlands Water District
P.O. Box 6056
Fresno, CA 93703
(c) [REDACTED]
(f) 559.241.6277
Email: kclark@westlandswater.org<<mailto:kclark@westlandswater.org>>

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From: Johnny Amaral

Sent: Friday, January 13, 2017 7:11 AM

To: Ryan A. 'Smith'; Denny Rehberg; Dennis Cardoza; David Bernhardt; Catherine Karen

Subject: Fwd: Cancellation of Call Tomorrow

I assume you all saw this. No pre call either

Best,

Johnny Amaral

Deputy General Manager - External Affairs

Westlands Water District

Begin forwarded message:

From: Karen Clark <kclark@westlandswater.org>

Date: January 12, 2017 at 8:17:14 PM PST

To: 'Alison MacLeod' <amacleod@ka-pow.com>, 'Carmela McHenry' <cmchenry@ka-pow.com>, 'Carolyn Jensen' <cjensen@ka-pow.com>, Catherine Karen <ckaren@sidley.com>, Dan Pope <dpope@westlandswater.org>, 'David Bernhardt' <dbernhardt@BHFS.com>, Dennis Cardoza <dcardoza@foley.com>, Denny Rehberg <drehberg@mercuryllc.com>, 'Ed Manning' <emanning@ka-pow.com>, 'Gayle Holman' <gholman@westlandswater.org>, Jennifer Walsh <jwalsh@foley.com>, Johnny Amaral <jamaral@westlandswater.org>, 'Mike Burns' <mburns@ka-pow.com>, Philip Williams <pwilliams@westlandswater.org>, Sheila Greene <sgreene@westlandswater.org>, Shelley Ostrowski <sostrowski@westlandswater.org>

Subject: Cancellation of Call Tomorrow

All,

We will not have a call tomorrow (January 13). Hope everyone has a good weekend.

Best,

~Karen

Karen Clark

Executive Assistant to Thomas W. Birmingham

Westlands Water District

P.O. Box 6056

Fresno, CA 93703

(c) [REDACTED]

(f) 559.241.6277

Email: kclark@westlandswater.org

From: Karen Clark

Sent: Thursday, January 12, 2017 9:17 PM

To: 'Alison MacLeod'; 'Carmela McHenry'; 'Carolyn Jensen'; Catherine Karen; Dan Pope; 'David Bernhardt'; Dennis Cardoza; Denny Rehberg; 'Ed Manning'; 'Gayle Holman'; Jennifer Walsh; Johnny Amaral; 'Mike Burns'; Philip Williams; Sheila Greene; Shelley Ostrowski

Subject: Cancellation of Call Tomorrow

Importance: High

All,

We will not have a call tomorrow (January 13). Hope everyone has a good weekend.

Best,

~Karen

Karen Clark

Executive Assistant to Thomas W. Birmingham

Westlands Water District

P.O. Box 6056

Fresno, CA 93703

(c) [REDACTED]

(f) 559.241.6277

Email: kclark@westlandswater.org

From: Holly Long

Sent: Thursday, January 5, 2017 6:01 PM

To: ara.azhderian@sldmwa.org; Carolyn Jensen; Chris White; David Bernhardt; Dennis Cardoza; Frances Brewster (FBrewster@valleywater.org); Frances Mizuno; Jason Peltier (jason.peltier@sldmwa.org); Jon Rubin (Jon.Rubin@sldmwa.org); Judy Bendix; O'Hanlon, Daniel; pwilliams@westlandswater.org; sfong@sfcwa.org; Sheila Greene (sgreene@westlandswater.org); Steve Chedester; Tom Boardman (tboardman@apex.net)

Subject: Delta conditions report

Attachments: 2017-1-5-DeltaConditionsReport.docx

Hi everyone,

The Delta conditions report is attached.

Thank you,
Holly

Holly Long

Mosaic Associates

1690 San Pablo Avenue, Suite D

Pinole, CA 94564

holly@mosaicassociates.net

510.964.0394 office

510.964.0396 fax

██████████ cell

DELTA CONDITIONS REPORT, JANUARY 5, 2017

Holly Long, SLDMWA

EXECUTIVE SUMMARY

- [Operational constraint](#): OMR -5,000 cfs.
 - [X2](#) today is 65 km (just east of Port Chicago).
 - [Scheduled combined exports](#) today are 5,600 cfs.
 - [Outflow index](#) today is ~25,900 cfs.
 - Tuesday's [CDEC OMR](#) values were -5,142 cfs (daily), -5,289 cfs (5-day), -5,990 (14-day).
 - [% inflow diverted](#) today is 13.9% (14-day average).
- [Salvage and ITLs, WY 2017](#)
 - Delta smelt, [salvage](#) (1/4): 0.
 - Longfin smelt, [salvage](#) (1/4): 0.
 - Winter-run Chinook, non-clipped [loss](#) (1/4): 23.12 (based on length-at-date).
 - Winter-run Chinook, clipped loss: n/a; fish are not yet released.
 - Spring-run Chinook (i.e. surrogates), loss (12/21): 0% of ITLs for two release groups.
 - Steelhead, non-clipped [salvage](#) (1/4): 0.4% of ITL.
- [Surveys/monitoring](#)
 - **Delta smelt**, most recent surveys:
 - [Fall Midwater Trawl](#): The 2016 abundance index is eight. No catch in December.
 - [December Kodiak Trawl](#): Caught 227 delta smelt, 214 of which were from station 706 (by Decker Island) (SWG notes, [12/12](#) and [12/19/16](#)).
 - [Bay Study](#): December survey caught three delta smelt near Three Mile Slough (SWG notes, [12/12/16](#)).
 - [Enhanced delta smelt monitoring](#): "EDSM was in the water last week. Survey locations were in the lower San Joaquin River, Sacramento River, confluence, and downstream of the confluence. A total of 24 Delta Smelt were caught, 14 from the lower San Joaquin River, 13 from the Sacramento River, and 6 from Suisun Bay. The EDSM was not able to conduct the full survey, so abundance estimates based on last week's catch may not represent the entire population. One Delta Smelt had been caught so far this morning [of 1/3], at a high density, low risk site" (SWG notes, [1/3/17](#)).
 - [Smelt Larva Survey \(#1\)](#): "SLS #1 is in the field this week. One adult Delta Smelt was caught at station 809 this morning (69 mm)" (SWG notes, [1/3/17](#)).
 - **Longfin smelt**, most recent surveys:
 - [Fall Midwater Trawl](#): The 2016 abundance index is seven. In December, longfin smelt were collected at stations in Suisun Bay, lower Sacramento, and SDWSC.
 - [December Kodiak Trawl](#): Caught two longfin smelt in Honker Bay; reporting not complete (SWG notes, [12/12/16](#)).
 - [Bay Study](#): Caught four longfin smelt throughout the Delta, with none in San Joaquin River or south Delta (SWG notes, [12/19/16](#)).
- [Expectations](#)
 - "Operators indicated the projected OMR Index is expected to be approximately -5,000 cfs this week. A cold storm system is moving through the area today [1/3]. A warmer, wetter

system is expected to move through the area by late in the week and over the weekend. High sustained winds are expected throughout the Delta” (SWG notes, [1/3/17](#)).

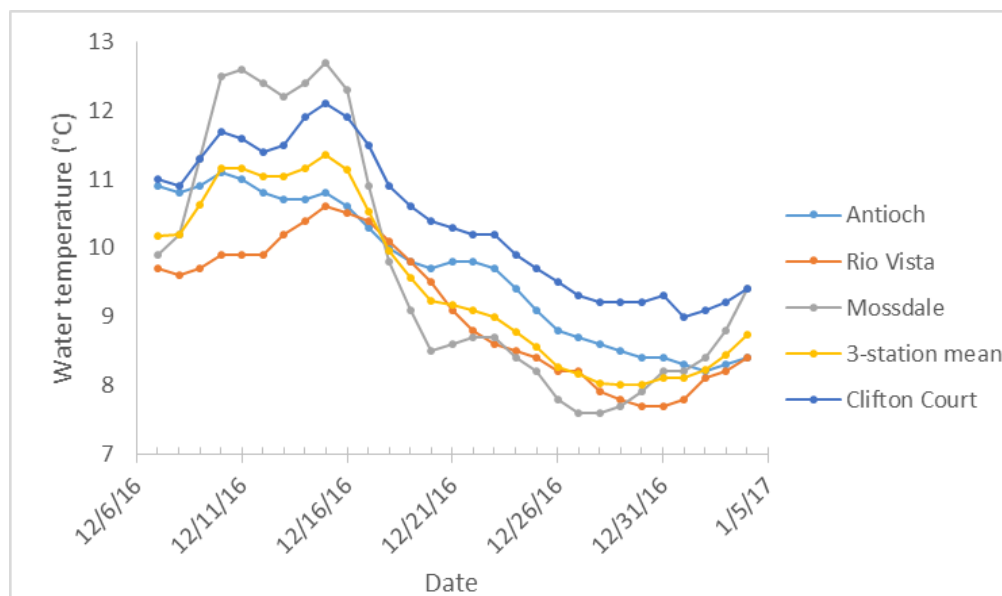
- “With higher turbidity levels encroached into the south Delta and with the anticipated storms this week, members indicated that OMR flows should be reduced to -2,000 cfs immediately in an effort to minimize the high risk of entrainment and subsequent salvage expected this week. The Working Group is following guidance for entrainment protections from Action 1 (adult Delta Smelt)” (SWG notes, [1/3/17](#)).
- “Continued collection of adult Longfin Smelt indicates that the spawning migration is underway and that spawning has likely began in early December (which will result in hatching in late December or early January. The number of adults migrating to spawn is expected to increase through January and into February, but as long as X_2 remains downstream, proportionally fewer will enter the central Delta to spawn. Summary of Risk: Risk of entrainment is low due to high outflow moving X_2 downstream and a neutral Qwest” (SWG notes, [1/3/17](#)).

DELTA CONDITIONS REPORT, JANUARY 5, 2017

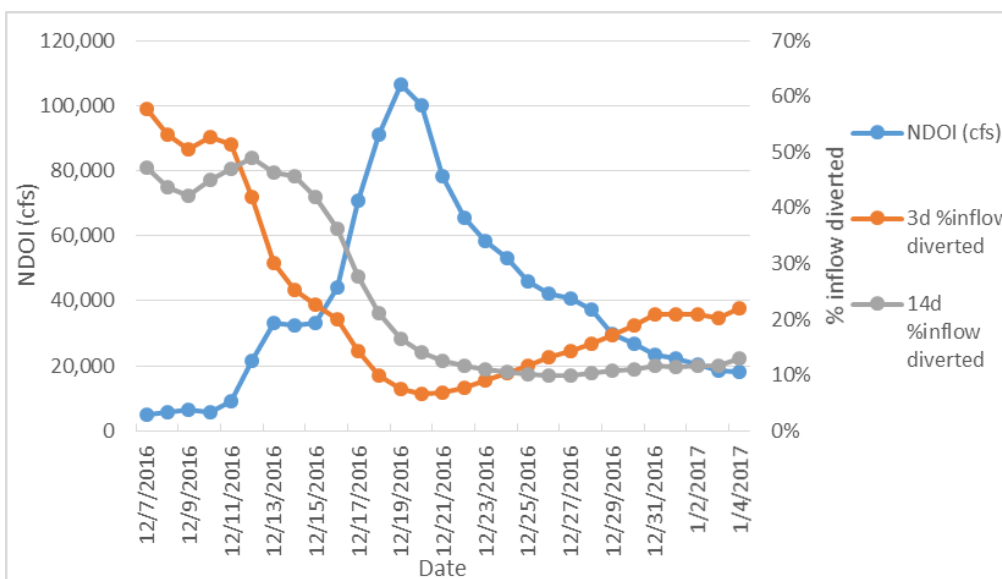
PHYSICAL CONDITIONS

- [Currently controlling operations](#): OMR -5,000 cfs.
 - “Operators indicated the projected OMR Index is expected to be approximately -5,000 cfs this week. A cold storm system is moving through the area today [1/3]. A warmer, wetter system is expected to move through the area by late in the week and over the weekend. High sustained winds are expected throughout the Delta” (SWG notes, [1/3/17](#)).
- [Location of X2, 1/5](#): 65 km (just east of Port Chicago).
- [DCC status, 1/5](#): Closed.
- [Turbidity](#) (at sites in delta smelt BiOp)
 - Three-day mean Prisoner’s Point: 15.9 NTU on 1/4
 - Three-day mean Holland Cut: 13.0 NTU on 1/4
 - Three-day mean Victoria Canal: 8.3 NTU on 1/4
- [Water Supply Index \(WSI\) forecast](#): December 1 forecast date
 - 50% exceedance for Sacramento River Unimpaired Runoff WY forecast: 20.5 MAF (115% of average)
 - Forecasted 50% exceedance for Sacramento Valley Index is 8.6 (Above Normal).
 - Forecasted 75% exceedance for San Joaquin Valley Index is 2.3 (Dry).
- [Climate outlook](#): December 1 (WSI listserv email, John J. King, DWR, 12/8/16)
 - “The NWS Climate Prediction Center (CPC) one-month outlook for December, valid November 30, indicates equal chances of above or below normal temperatures for the entire state with the exception of the far north, and Mojave and Owens Valley where below normal temperatures are favored. The same outlook predicts above normal precipitation for the far north and equal chances of above or below normal precipitation elsewhere.”
 - “The CPC three-month (December-January-February) outlook, posted November 17, indicates increased chances of above normal temperatures for the entire state. Precipitation is forecasted below normal south of Monterrey Bay and Yosemite National Park Regions. Otherwise equal chances of above or below normal precipitation is forecasted for the state.”
 - “La Niña conditions are present. Equatorial sea surface temperatures (SST) are below average in the central and east-central Pacific Ocean. La Niña is slightly favored to persist (~55% chance) through winter 2016-17.”

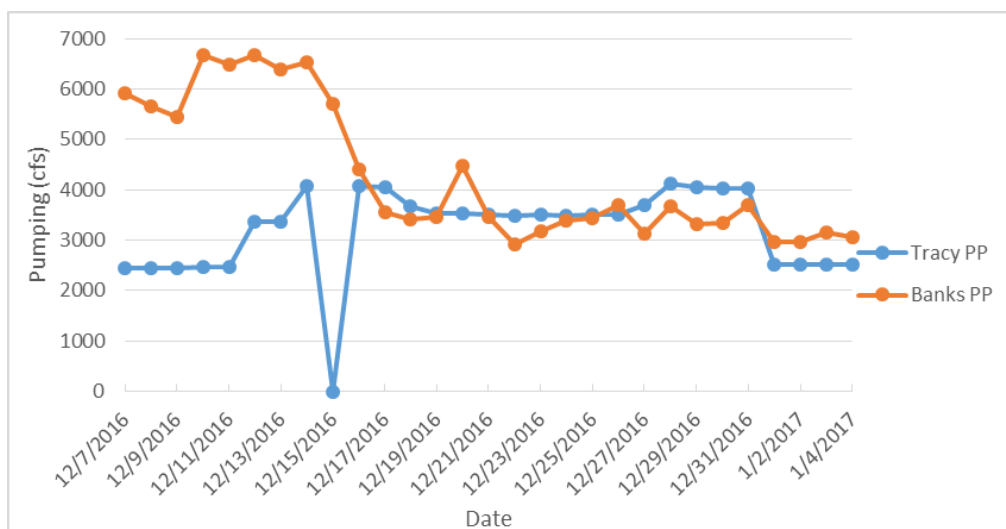
- Temperature (at [San Joaquin River at Antioch](#), [Sacramento River at Rio Vista Bridge](#), [San Joaquin River at Mossdale Bridge](#), three-station mean of the preceding stations, and [Clifton Court](#))



- Delta outflow index as of 1/5: ~25,900 cfs
 - January monthly outflow requirement is 4,500 cfs, with a 7-day average not less than 3,500 cfs. January status as of 1/4 is 19,813 cfs and 19,813 cfs, respectively.
- Total Delta inflow as of 1/5: ~31,123 cfs
 - Sacramento flow: 22,593 cfs
 - San Joaquin flow: 1,028 cfs
 - % inflow diverted (14-day average): 13.9%.
 - For % inflow diverted, July–January standard is 65%.
 - Data graphed below is [here](#).

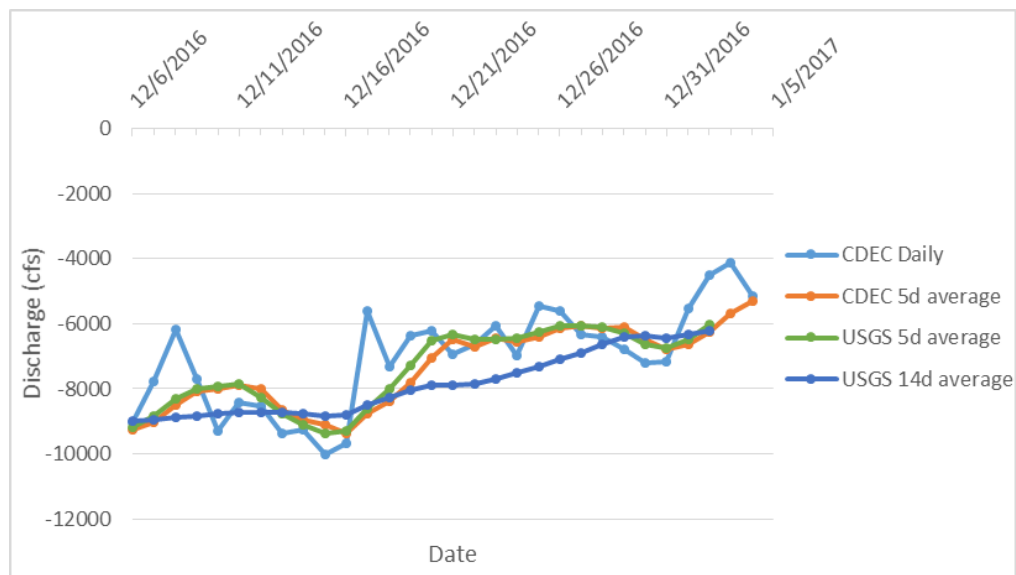


- Exports ([Tracy Pumping Plant](#) and [Banks Pumping Plant](#)):



- 1/5 [scheduled exports](#): 3,100 cfs Clifton Court inflow; 2,500 cfs Jones/Tracy PP.

- Tidally-filtered OMR ([CDEC OMR](#); USGS [Old River at Bacon Island](#) and [Middle River at Middle River](#)):



REGULATORY

- Delta smelt

- “With higher turbidity levels encroached into the south Delta and with the anticipated storms this week, members indicated that OMR flows should be reduced to -2,000 cfs immediately in an effort to minimize the high risk of entrainment and subsequent salvage expected this week. The Working Group is following guidance for entrainment protections from Action 1 (adult Delta Smelt)” (SWG notes, [1/3/17](#)).
- See below for relevant RPAs:

2008 BiOp RPA section	Trigger stage	Trigger month	Trigger criteria	WY 2017 information	Regulation
Action 1: Adult migration and entrainment (first flush) (RPA Component 1)	A	Dec. 1 - Dec. 20	Smelt Working Group may recommend a start date for the Action to the Service, based on conditions.		"Limit exports so that the average daily OMR flow is no more negative than -2000 cfs for a total duration of 14 days, with a 5-day running average no more negative than -2,500 cfs (within 25 percent)" (p. 329). SWG can recommend delayed start or interruption based on conditions affecting entrainment vulnerability.
	B	After Dec. 20	(1) Three-day average turbidity at Prisoner's Point, Holland Cut, and Victoria Canal are each > 12 NTU. (2) Three days of DS salvage at either facility. (3) Cumulative daily salvage ≥ 1/2 prior year FMWT value.	SWG recommended OMR flow reduction to -2,000 cfs (SWG notes, 1/3/17). Trigger for (3) is salvage of 4 fish.	
	Offramp	.	(1) Water temp reaches 12°C based on three-station daily mean at Mossdale, Antioch, Rio Vista. (2) Onset of spawning (presence spent females in SKT, Banks, or Jones).		Action 3 triggered, unless Service decides Action 2 should be implemented instead.
Action 2: Adult migration and entrainment (RPA Component 1)	.	.	Begins after Action 1. If Action 1 not implemented, SWG recommends start date.		Range of net daily OMR flows no more negative than -1,250 to -5,000 cfs. Specific flows recommended by SWG in weekly recommendations, based on conditions. Guidelines discussed in BiOp. OMR flow based on 14-day running average with 5-day running average within 25% of required OMR flow. OMR flow requirements do not apply when three-day flow average is ≥ 290,000 cfs in Sacramento River at Rio Vista and 10,000 cfs in San Joaquin River at Vernalis.
	Offramp	.	(1) Water temp reaches 12°C based on three-station daily mean at Mossdale, Antioch, Rio Vista. (2) Onset of spawning (presence spent females in SKT, Banks, or Jones).		Action 3 initiated.

- Longfin smelt

- “The Smelt Working Group has no advice for Longfin Smelt: Advice is not warranted at this time given current conditions” (SWG notes, [1/3/17](#)).

- See below for relevant RPAs:

2009 Longfin smelt ITP Condition	Trigger stage	Trigger month	Trigger	WY 2017 information	Regulation
5.1 (OMR flow)	.	Dec. - Feb.	(1) Cumulative salvage index (=cumulative combined salvage/FMWT index) >5 OR (2) Review of abundance and distribution survey data and other biological factors affecting entrainment risk of adults indicates OMR flow advice warranted.	Cumulative combined salvage threshold is >35 adults.	SWG provides OMR flow advice to WOMT and Director of DFG weekly. Condition not likely to occur in many years. Would not trigger or would cease if Sacramento at Rio Vista > 55,000 cfs or San Joaquin at Vernalis > 8,000 cfs; retriggered at 40,000 and 5,000 cfs, respectively.
	Offramp		Spawning detected.		Condition 5.2 begins.
5.2 (OMR flow)	.	Jan. - June	Flow advice warranted when SLS or 20mm Survey sampling period results in (1) LFS larvae or juveniles found in 8 or more of the 12 stations in the central and south Delta (stations 809, 812, 815, 901, 906, 910, 912, 914, 915, 918, 919). (2) Catch per tow > 15 LFS larvae or juveniles in 4 or more of above 12 stations.		SWG or DFG SWG personnel provides OMR flow advice to WOMT and Director weekly. OMR flow advice will be between -1,250 and -5,000 cfs and based on survey data. Likely scenarios: Jan.-Mar. (high entrainment risk)= -1,250 to -5,000 cfs; Apr. - May (medium risk)= -2,000 to -5,000 cfs; June (low risk)= -5,000 cfs. Would not trigger or would cease if Sacramento at Rio Vista > 55,000 cfs or San Joaquin at Vernalis > 8,000 cfs; retriggered at 40,000 and 5,000 cfs, respectively.
5.3 (Barker Slough Pumping Plant)	.	Jan. 15 - Mar.	Dry and critically dry years. Detection of larval longfin smelt at station 716.		SWG or DFG SWG provides weekly Barker Slough Pumping Plant operations advice to WOMT and Director, based on survey data and other biological factors affecting entrainment risk and detection of larval LFS at Station 716. Advice for maximum 7-day average must be ≤ 50 cfs.
	Offramp		Larval longfin smelt no longer detected at Station 716.		Restriction removed.

- Salmonids

- See below for relevant RPAs:

2009 BiOp RPA section	Trigger stage	Trigger month	Trigger criteria	WY 2017 information	Regulation
IV.1.1 (Monitoring and alerts to trigger changes in DCC operations)	"First alert"	Oct. - Apr.	(1) Mean daily flow >95 cfs in Mill or Deer Creek OR (2) Starting in Oct., an increase in tributary flow of > 50% over levels immediately preceding flow spike--> indicates cues for emigration initiation.		Either criterion can trigger the alert. Alert signals that gate operations might need alteration in near future to avoid diverting outmigrating Chinook.
	"Second alert"		(1) Water temp < 13.5°C at Knights Landing AND (2) Flows greater than 7,500 cfs at Wilkins Slough--> associated with recovering emigrating Chinook at Knights Landing.		Alert triggered when both second alert criteria met.
IV.1.2 (DCC gate operations)	N/A	Dec. 15-Jan. 31	Gates may be opened for up to 5 days for NMFS-approved experiment, or for one-time event between Dec. 15-Jan. 5 when needed to maintain WQ in response to high tide coupled with low inflow.	Gates are closed.	Gates closed, dependent on triggers.
		Feb. - May 20	N/A		Gates closed per D1641.
		May 21 - June 15	N/A		Closed up to 14 days per D1641.
IV.2.3 (OMR flow management)	First stage	Jan. 1 - June 15	(1) (With rapid genetic analysis occurring) Daily SWP/CVP genetic Winter-run Chinook salmon loss density > WR ITL/2000, with minimum of 2.5 fish/TAF	Not met, as of 1/4	OMR flows limited to -5,000 cfs based on 14-day running average of tidally filtered flow, with 5-day running average ≤ 25% more negative than targeted 14-day average requirement. Reductions when any trigger criterion is met--> Average net OMR flow of -3,500 cfs for minimum 5 consecutive days. Five-day running average OMR flows ≤ 25% more negative than targeted flow level at any time during 5-day running average period (e.g., -4,375 cfs average over five days). Resumption of -5000 cfs flows allowed when average daily fish density is less than trigger density for last 3 days of export reduction. Alternate regulation is immediate reduction of exports to 1,500 cfs until required OMR limit met.
			(2) (With rapid genetic analysis occurring) Daily SWP/CVP genetic Winter-run Chinook salmon loss > 8 fish/TAF multiplied by volume exported (TAF)	Not met, as of 1/4	
			(3) CNFH CWT LFR or LSNFH CWT WR cumulative loss > 0.5% for each surrogate release group	Not met, as of 12/21	
			(4) Daily loss wild steelhead > 8 fish/TAF multiplied by volume exported (TAF)	Not met, as of 1/4	
	Second stage (high concern)	Jan. 1 - June 15	(1) (With rapid genetic analysis occurring) Daily SWP/CVP genetic Winter-run Chinook salmon loss density > WR ITL/1000, with minimum of 5.0 fish/TAF		OMR flows limited to -5,000 cfs based on 14-day running average of tidally filtered flow, with 5-day running average ≤ 25% more negative than targeted 14-day average requirement. Reductions when any trigger criterion is met--> Average net OMR flow of -2,500 cfs for minimum 5 consecutive days. Resumption of -5,000 cfs allowed when average daily fish density less than trigger density for last 3 days of export reduction. Alternate regulation is immediate reduction of exports to 1,500 cfs until required OMR limit met.
			(2) (With rapid genetic analysis occurring) Daily SWP/CVP genetic Winter-run Chinook salmon loss > 12 fish/TAF multiplied by volume exported (TAF)		
	End of triggers	Jan. 1 - June 15	Action continued until June 15 or when average daily water temperature at Mossdale > 22°C (72°F) for seven consecutive days in June.		Regulations lifted when trigger for end of OMR regulation is met.
IV.3 (Reduce likelihood of entrainment or salvage at export facilities)	"Third alert"	Jan. - Apr.	Catch index > 10 fish/d (Nov. - Feb.) or > 15 fish/d (Mar. - Apr.) from either Knights Landing or Sacramento Catch Index.	Indices are <10 (Bay Delta Live, 1/5)	In conjunction with two DCC-closure triggers (IV.1.1), this alert signals that export operations might need to change in near future due to large numbers juvenile Chinook migrating into upper Delta. Implement Action IV.2.3 (restrict OMR flows rather than having set levels of exporting).

DELTA SMELT

- **Salvage:**
 - "As stated last week, members are basing their assessment of risk on entrainment into the south Delta, rather than into the facilities" (SWG notes, [1/3/17](#)). See SWG notes for discussion of turbidity, delta smelt detections, and spawning migration. "Advice Framework OMR Level Risk Ranking and Discussion: The above discussion points influenced and contributed to all three flow ranges described below: OMR Flow of -1,250 to -2,000 cfs:

moderate risk of entrainment (some members indicated a high risk of entrainment)...OMR Flow of -2,000 to -3,500 cfs: high risk of entrainment...OMR Flow of -3,500 to -5,000 cfs: high risk of entrainment..." (SWG notes, [1/3/17](#)). All risk rankings had associated descriptions of risk factors, salvage, unknowns, turbidity, and persistence of risk.

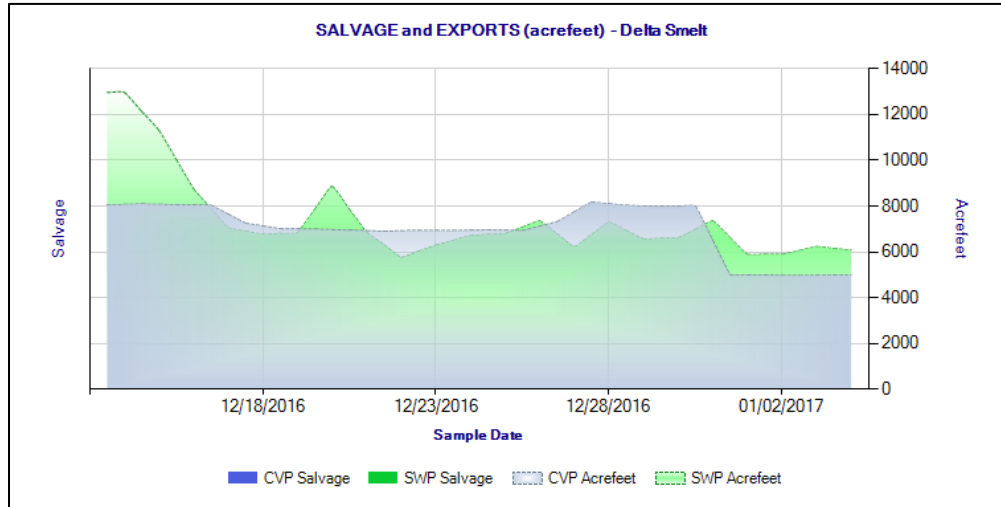


Figure: Recent delta smelt salvage (adults and juveniles) at both facilities (none in time period shown). Data through 1/4, graph from [CDFW](#).

	Combined salvage as of 1/4/16	Concern level for WY 2017	ITL for WY 2017
Adult	0	Not yet known	
Juvenile	0	Not yet known	

- **Enhanced Delta Smelt Monitoring:**
 - "EDSM was in the water last week. Survey locations were in the lower San Joaquin River, Sacramento River, confluence, and downstream of the confluence. A total of 24 Delta Smelt were caught, 14 from the lower San Joaquin River, 13 from the Sacramento River, and 6 from Suisun Bay. The EDSM was not able to conduct the full survey, so abundance estimates based on last week's catch may not represent the entire population. One Delta Smelt had been caught so far this morning [of 1/3], at a high density, low risk site" (SWG notes, [1/3/17](#)). See SWG notes for additional discussion on use of EDSM results. "Members also requested that the Service modify the EDSM survey protocols for this week (and possibly

next week) to include sampling stations in the Old River corridor, since Delta Smelt presence and changes in density in the Old River are evidence of movement into the South Delta: a primary indicator of salvage risk, and a primary response variable targeted by SWG management recommendations” (SWG notes, [1/3/17](#)).

- **Fall Midwater Trawl:**

- “The 2016 abundance index (8) is the second lowest in FMWT history (Figure 1). Seven Delta Smelt were collected at index stations in the lower Sacramento River (n=7) in November. No Delta Smelt were collected in September, October, or December” (White, J. 2016. Subject: Fall Midwater Trawl 2016 Annual Fish Abundance Summary. [CDFW memo](#).)

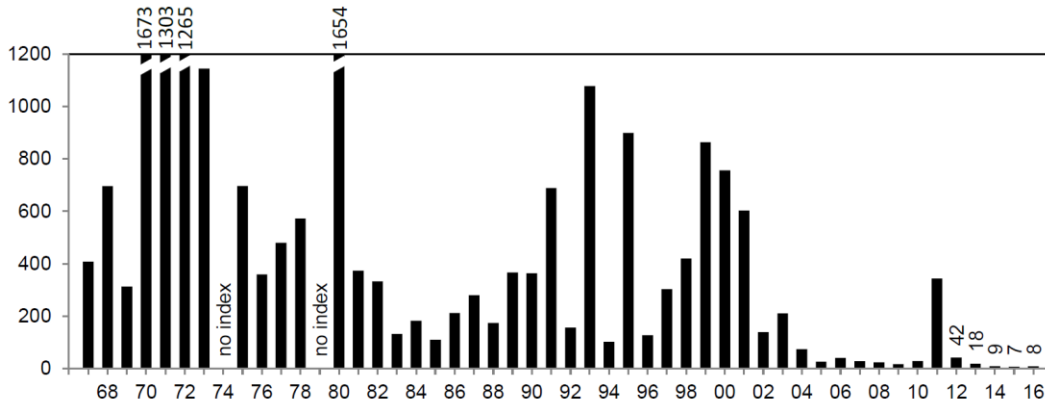


Figure 1. FMWT Delta Smelt annual abundance indices (all ages), 1967-2016.

- **December [Spring Kodiak Trawl](#):**

- Caught 227 delta smelt (SWG notes, [12/19/16](#)), 214 of which were from station 706 (lower Sacramento River by Decker Island) (SWG notes, [12/12/16](#)).

- **[Smelt Larva Survey](#):** Started January 3.

- “SLS #1 is in the field this week. One adult Delta Smelt was caught at station 809 this morning (69 mm)” (SWG notes, [1/3/17](#)).

- **[Spring Kodiak Trawl \(regular\)](#):** Starts January 9.

- **[Bay Study](#):**

- December survey completed during the week of 12/5. “Three delta smelt were caught at station 752 in the Sacramento River near Three Mile Slough” (SWG notes, [12/12/16](#)).

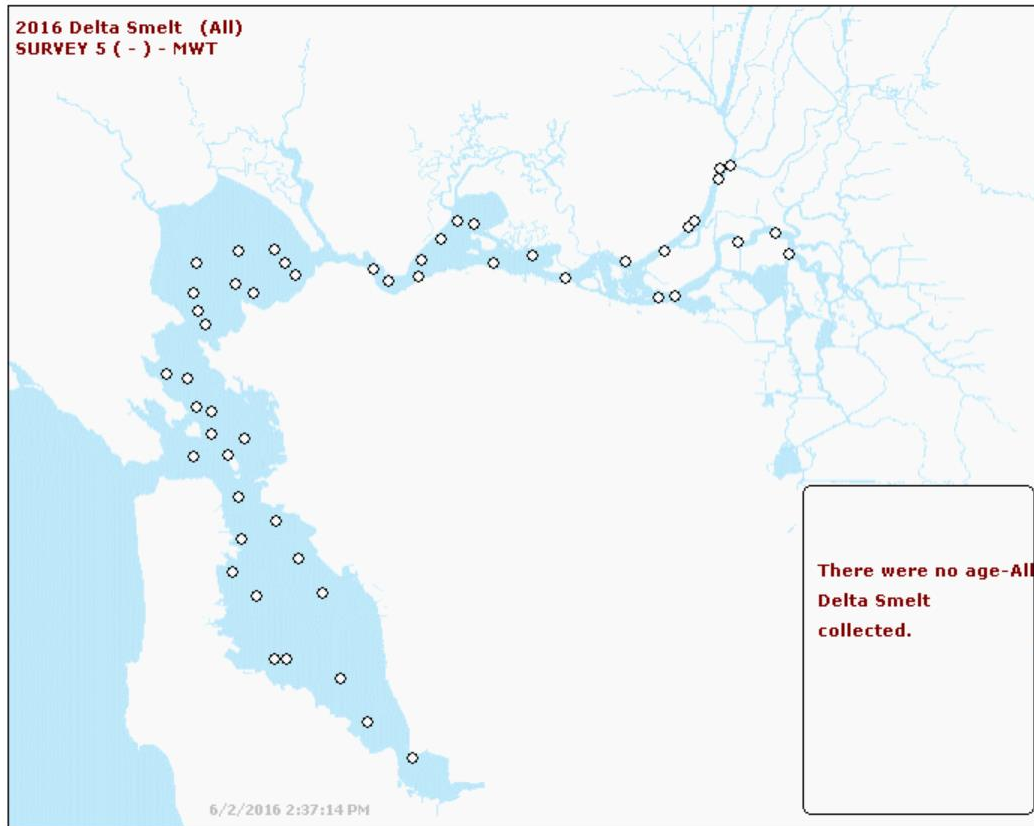


Figure: Monthly Mid water trawl (pelagic), Survey 5 (May; most recent figure available). No delta smelt were caught in May. Figure from [CDFW](#).

LONGFIN SMELT

- **Salvage:**
 - No salvage yet this WY (as of 1/4).

- “Continued collection of adult Longfin Smelt indicates that the spawning migration is underway and that spawning has likely begun in early December (which will result in hatching in late December or early January. The number of adults migrating to spawn is expected to increase through January and into February, but as long as X_2 remains downstream, proportionally fewer will enter the central Delta to spawn. Summary of Risk: Risk of entrainment is low due to high outflow moving X_2 downstream and a neutral Qwest” (SWG notes, [1/3/17](#)).

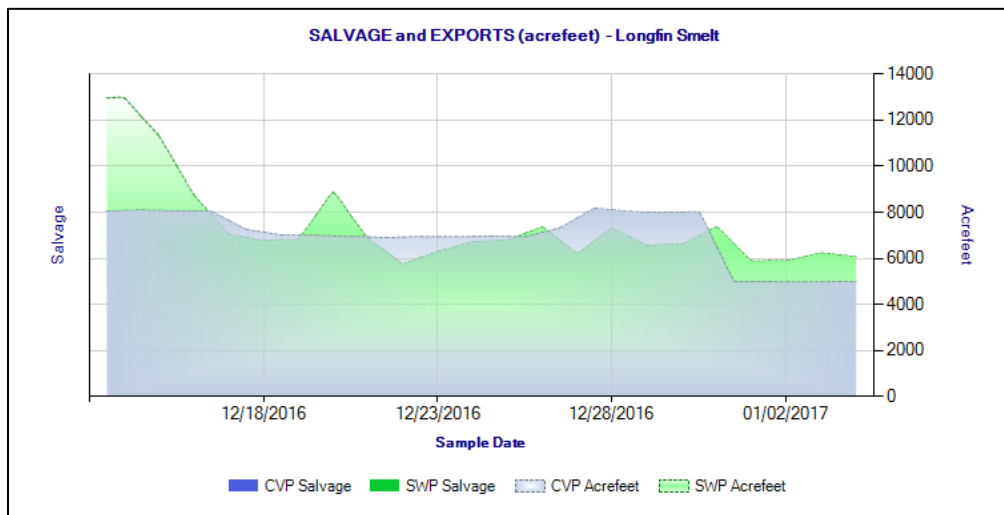


Figure: Recent longfin smelt salvage at both facilities (none in the time frame shown). Data through 1/4, graph from [CDFW](#).

- **Fall Midwater Trawl:**
 - “The 2016 abundance index (7) is the second lowest in FMWT history (Figure 3). Five Longfin Smelt were collected at index stations” (White, J. 2016. Subject: Fall Midwater Trawl 2016 Annual Fish Abundance Summary. [CDFW memo](#).)

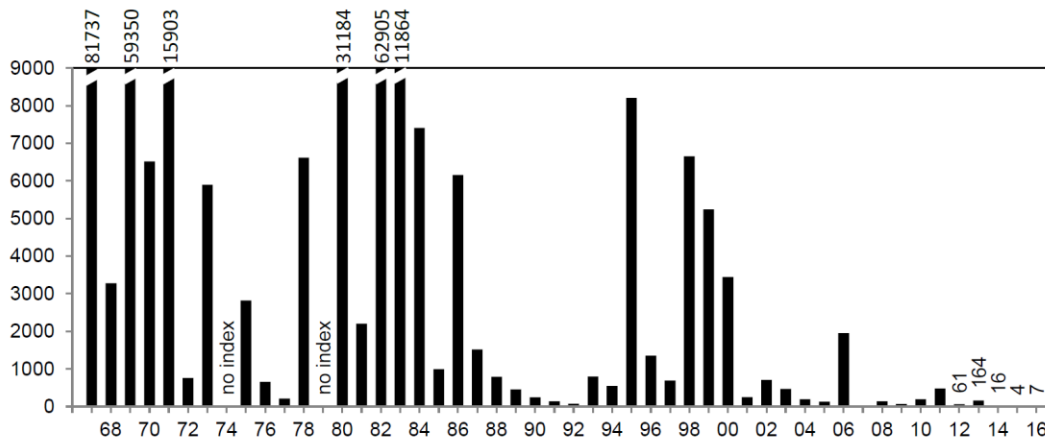


Figure 3. FMWT Longfin Smelt annual abundance indices (all ages), 1967-2016.

- **December [Spring Kodiak Trawl](#):**
 - In the field the week of 12/5. Was finishing the last eight stations as of 12/12. Two longfin smelt were caught in Honker Bay. Results were not yet reported for stations in Suisun Bay (SWG notes, [12/12/16](#)).
- **[Smelt Larva Survey](#):** Started January 3.
- **[Bay Study](#):**
 - December survey completed during the week of 12/5 (SWG notes, 12/12/16). It caught four longfin smelt throughout the Delta, but none in the San Joaquin River or south Delta (SWG notes, [12/19/16](#)).

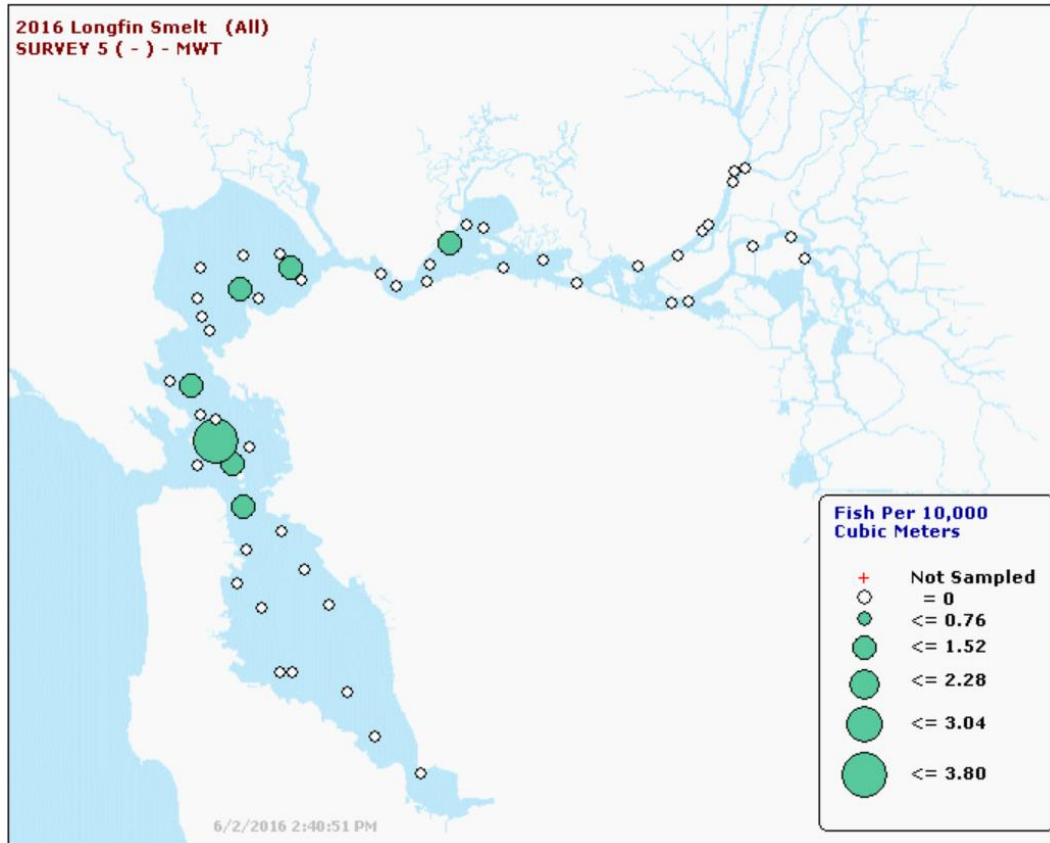


Figure: Monthly Mid water trawl (pelagic), Survey 5 (May; most recent figure available). Age-0 longfin smelt were caught in Suisun, San Pablo, and San Francisco Bays. Figure from [CDFW](#).

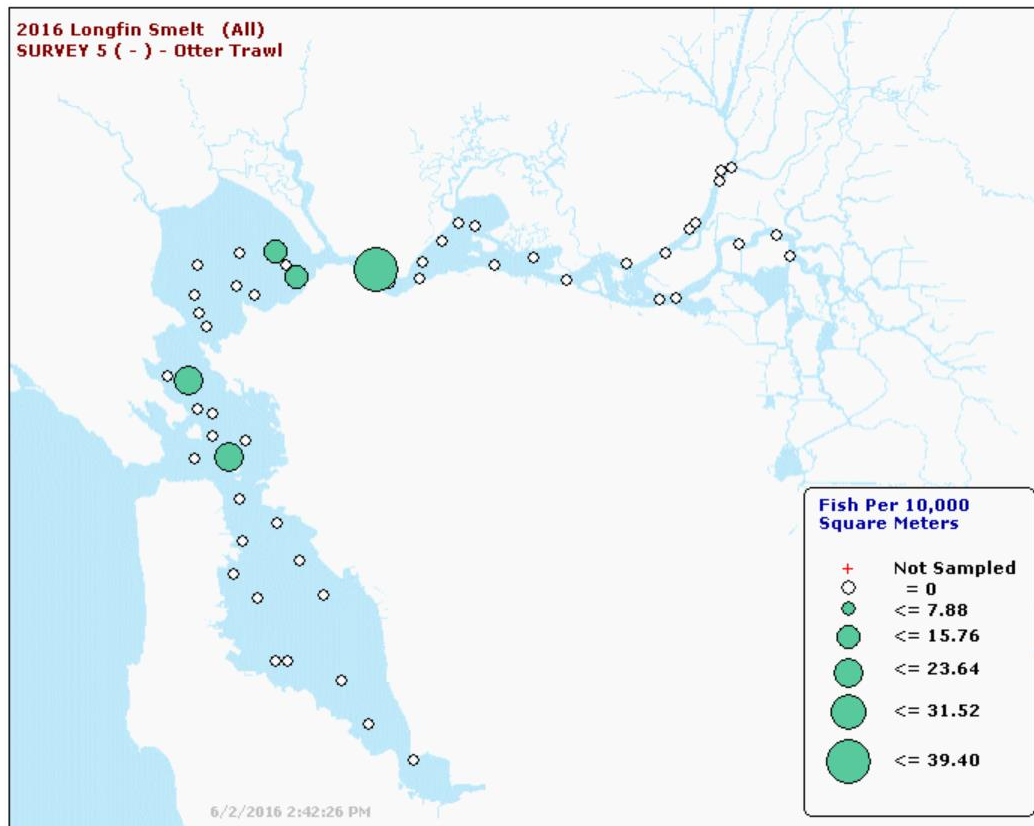


Figure: Monthly otter trawl (demersal/bottom), Survey 5 (May; most recent figure available). Age-0 longfin smelt were caught in the Carquinez Strait, eastern San Pablo Bay, and San Francisco Bay. Figure from [CDFW](#).

CHINOOK SALMON

- **Salvage:**

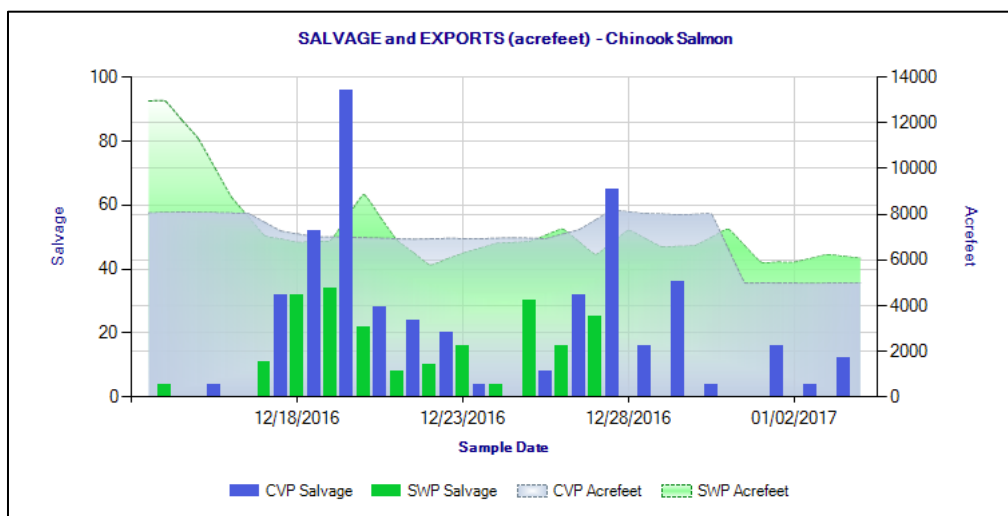


Figure: Recent Chinook salmon salvage at both facilities (all races). Salvage dates of non-clipped Winter-run-size fish were 12/20 (SWP, CVP), 12/27 (CVP). Data through 1/4, graph from [CDFW](#).

	Winter-run cumulative combined loss	Winter-run concern level for WY 2017	Winter-run ITL for WY 2017
Non-clipped (as of 1/4; based on length-at-date)	23.12	Not yet known	
Clipped (hatchery fish not yet released)	n/a	Not yet known	

Coleman NFH Late-fall-run surrogate group	Released spring-run surrogates	Cumulative combined loss as of 12/21/16	Spring-run surrogate concern level WY 2017 (0.5%)	Spring-run surrogate ITL WY 2017 (1%)
12/12/2016 release	75,000	0	375	750
12/21/2016 release	81,279	0	406	812

- **DOSS estimates of fish distribution:** (“1/3/17 DOSS update for DAT” email, B. Byrne, 1/3/17)
 - Wild young-of-year Winter-run: 20–35% yet to enter Delta, 65–80% in Delta, 0% exited Delta.
 - Wild young-of-year Spring-run: 55–70% yet to enter Delta, 30–45% in Delta, 0% exited Delta.

STEELHEAD

- **Salvage:**

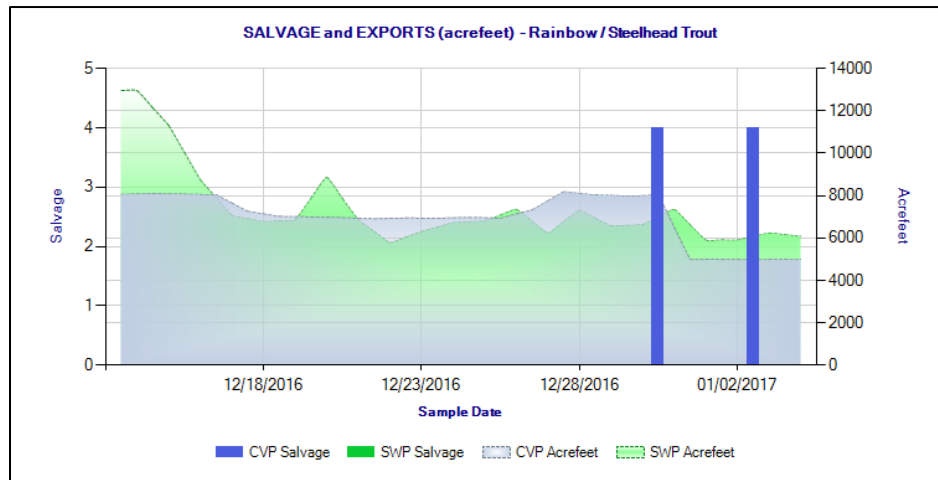


Figure: Recent steelhead salvage at both facilities (clipped and non-clipped; none in time period shown). Non-clipped steelhead salvage dates were 11/27 (SWP), 12/31, 1/3 (CVP). Data through 1/4, graph from [CDFW](#).

	Cumulative combined salvage for WY 2017 as of 1/4/17	Concern level	Steelhead ITL
Non-clipped, adults and juveniles	12	1,500	3,000

From: Bernhardt, David L.
Sent: Wednesday, January 4, 2017 11:32 AM
To: Johnny Amaral
Subject:
Attachments: sec_order_no._3343_cal_water.pdf; ATT00001.txt

https://www.doi.gov/sites/doi.gov/files/uploads/sec_order_no.3343_cal_water.pdf

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THE SECRETARY OF THE INTERIOR
WASHINGTON

ORDER NO. 3343

Subject: Actions to Address Effects of Drought and Climate Change on California's Water Supply and Listed Species

Sec. 1 Purpose. The Department of the Interior (Department), through the Bureau of Reclamation (Reclamation) and the U.S. Fish and Wildlife Service (FWS), and informed by the science of the U.S. Geological Survey (USGS), has many responsibilities for managing the State of California's (State) water resources and aquatic ecosystems. Long-term drought, fueled by climate change, has adversely affected the State's water supplies, exacerbated effects of water operations on imperiled species, impacted water quality, and added to the stressors affecting the health of California's unique ecosystems, particularly the Sacramento-San Joaquin Delta (Bay-Delta).

The purpose of this Order is to document and continue a Department-wide approach and range of actions that, in coordination with the State's implementation of the 2009 Delta Reform Act and the 2014 California Water Action Plan, addresses the effects of drought and climate change on the State's water resources over both the short term and the long term. The Order seeks to facilitate the integration of State and Federal efforts to optimize the many interests in the Bay-Delta, including the needs of agriculture and municipalities, while simultaneously fostering conservation of species found throughout the ecosystem.

A number of collaborative water resource initiatives involving the State, the Department, and other agencies and stakeholders are currently being carried out in California. The initiatives include the California WaterFix; California EcoRestore; Implementation of a Delta Smelt Resiliency Strategy; Implementation of the Sacramento Winter-Run Chinook Salmon Action Plan; Reinitiation of Endangered Species Act (ESA) Section 7 Consultation on the Coordinated Long-Term Operations of the Central Valley Project (CVP) and State Water Project (SWP); and the State Water Resources Control Board (SWRCB) Process to Update the Bay-Delta Water Quality Control Plan (Bay-Delta Plan).

This Order provides direction for the Department, and particularly Reclamation and FWS, with scientific support and technical advice from USGS, to complete the technical, scientific, and analytical work necessary to make permitting, regulatory, and other decisions associated with these initiatives. While many of these initiatives are targeted to benefit specific species and increase water supply reliability, it is anticipated that the restoration actions will also improve habitat conditions for other at-risk species.

Sec. 2 Authorities. This Order is issued under statutory authority that includes, but is not limited to, the Reclamation Laws (Act of June 17, 1902, and all acts amendatory thereof and supplementary thereto); the Central Valley Project Improvement Act (P.L. 102-575, Title XXXIV); the Endangered Species Act (16 U.S.C. 1631, et seq.); the Fish and Wildlife Coordination Act (16 U.S.C. 1661, et seq.); the National Environmental Policy Act (42 U.S.C. 1201, et seq.); and authority provided by Section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), as amended.

Sec. 3 **Background.**

a. Recent Operations, Water Supply Trends, and Status of Species.

(1) Reclamation's CVP and California's SWP are among the largest water conveyance systems in the world, delivering about 9-10 million acre-feet of water in non-drought years to farms, cities, and ecosystems throughout the State. Since most precipitation falls in the northern part of the State, and most water use is in the southern part, the combined systems must convey vast amounts of water each year through the Bay-Delta into State and Federal canals that carry the water to the agricultural Central Valley, and metropolitan areas in the San Francisco Bay area and southern California. Over time, many factors, including water operations have caused a serious decline in the world-renowned Bay-Delta ecosystem and the salmon and other fish populations dependent on it. In recent years, a scientific consensus has developed, particularly in view of projected sea level rise and other climate impacts affecting water supplies, that a broad set of actions is necessary, including upgrading or modifying the Federal and State water conveyance system through the Bay-Delta to improve the ability to provide reliable water supplies and help restore a healthy Bay-Delta ecosystem.

(2) The last decade has been dominated by periods of severely reduced snowpack, reduced precipitation, and significant groundwater withdrawals. Estimates indicate Water Year (WY) 2016 was the ninth of 10 years with below-average runoff.

(3) Entering WY 2016, CVP carryover reservoir storage was only 2.9 million acre-feet, which was just 24 percent of capacity and 47 percent of the 15-year average. Conditions have slightly improved over the last year, as the CVP entered WY 2017 with 4.9 million acre-feet of water in the 6 key CVP reservoirs, which is 82 percent of the 15-year average annual carryover of 6.0 million acre-feet. Storage in State facilities continues to be similarly impacted by drought, with current storage in the Oroville Reservoir and in the State portion of San Luis Reservoir at roughly 60 percent of average entering WY 2017.

(4) Impacts to fish species have also been significant over this time period. The population of Delta Smelt, an annual species found only in the Delta, is at an all-time low. The Spring Kodiak Trawl Index for Delta Smelt has continued a downward slide and is 90 percent lower in 2016 than the previous historic low.

(5) Winter-run Chinook salmon populations are also at very low levels. Over the last 10 years of available data (2003-2013), the abundance of spawning Winter-run Chinook salmon adults ranged from a low of 738 in 2011 to a high of 17,197 in 2007, with an average of 6,298. This is in stark contrast to an average abundance of 87,000 spawning adults in the late 1960s.

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(ii) Snowpack will likely decline considerably due to warming, particularly in the lower elevations of the mountains surrounding the Central Valley. Runoff will increase during fall and winter months. Peak runoff may shift more than a month earlier in some watersheds. Spring runoff will decrease due to reduced winter snowpack.

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(7) Even apart from the drought, increasing population, land-use changes, and new environmental water needs have all contributed to an increasing imbalance between water supplies and demands. The Basin Study shows that this imbalance will continue to increase unless actions are taken to address it. For the CVP service area over the course of the 21st century, average annual unmet water demands are expected to range from 2.7 to 8.2 million acre-feet per year, with most of the unmet demands occurring south of the Bay-Delta.

b. Current Initiatives in the Sacramento and San Joaquin River Basins.

(1) California WaterFix.

(i) Over the past decade, a broad scientific consensus has developed that continuation of status quo water and ecosystem management in the Bay-Delta is unsustainable, and that the only way to avoid greatly diminishing Delta water exports would be to construct an alternate water conveyance structure through the Delta. (See e.g., “Delta Vision,” Governor’s Blue Ribbon Task Force (2007); “Managing California’s Water – From Conflict to Reconciliation,” Public Policy Institute of California (2011); “Sustainable Water and Environmental Management in the California Bay-Delta,” National Research Council of the National Academies (2012)). In 2006, the Bay-Delta Conservation Plan (BDCP) planning process began to address the myriad issues affecting the Bay-Delta by evaluating new infrastructure and habitat improvement measures. Central to the BDCP was a proposed new conveyance facility for the SWP and CVP that would divert water from north of the Delta, together with a plan to restore 100,000 acres of Bay-Delta habitat. The BDCP was a combined Habitat Conservation Plan under Section 10 of the Federal ESA and a Natural Community Conservation Plan under the California Natural Community Conservation Planning Act. In April 2015, the State revised the proposed project, separating the conveyance facility from the habitat restoration measures to form two separate efforts: California WaterFix (CWF) and California EcoRestore. The CWF is now being evaluated pursuant to Section 7 of the Federal ESA.

(ii) The five State and Federal agencies analyzing CWF (Reclamation, FWS, National Marine Fisheries Service (NMFS), California Department of Water Resources (DWR), and California Department of Fish and Wildlife (CDFW)) are working to complete all

environmental analyses and legal requirements in order to make a final decision on CWF implementation.

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(iv) ESA Section 7 Compliance. Reclamation, as the lead agency for ESA Section 7 consultation, coordinated with DWR, as the CWF project applicant, to prepare a Biological Assessment on CWF. Reclamation delivered the Final Biological Assessment to FWS and NMFS in August 2016, and formal consultation began in September 2016. An independent peer review of FWS and NOAA Biological Opinions' analyses of the CWF effects on aquatic species and designated critical habitats will be completed prior to finalization of these documents. The NMFS and FWS Biological Opinions are expected to be completed by April 2017. Upon receipt of the Biological Opinions, and coupled with the issuance of the Final EIR/EIS for the CWF on December 22, 2016, the Department will be in a position to issue a Record of Decision (ROD) on the project and DWR intends to issue its Notice of Determination.

(v) Petition for Change in Point of Diversion. Reclamation and DWR submitted to the SWRCB a joint petition for a change in water rights permits for the CVP and SWP in order to operate the CWF diversion and conveyance project. Part 1 of the SWRCB hearing, focused on potential injury to legal users of water, commenced in July 2016. Part 2 of the hearing, focused on effects to fish and wildlife, is expected to begin in the first half of 2017.

(2) California EcoRestore. In April 2015, the State launched California EcoRestore. The purpose of EcoRestore is to accelerate the restoration of tidal, riparian, and floodplain habitat in the Delta, targeting 30,000 acres of new habitat by the end of 2018. Since that launch, EcoRestore has achieved concrete results and expects to complete or have under construction over 7,370 acres of tidal and floodplain restoration, 2,680 feet of riparian habitat restoration, and 3 fish passage projects by 2017. There is scientific consensus about the need for and the benefit of habitat restoration in the Delta. Restoration in the Delta pursuant to EcoRestore will assist each of the five State and Federal agencies with their individual and collective responsibilities.

(3) Delta Smelt Resiliency Strategy.

(i) In July 2016, in response to significant population declines, the California Natural Resources Agency (CNRA) issued the Delta Smelt Resiliency Strategy (Strategy). The Strategy consists of 13 actions that include augmenting outflow, enhancing the food web, reducing nonnative invasive aquatic weeds and predatory fish, and restoring habitat in key Delta Smelt areas. The proposed actions are intended to address the near-term needs of Delta Smelt

and to promote their resiliency to adverse and varied habitat conditions.

(ii) The Strategy includes an Outflow Augmentation element aimed at improving an understanding of the effects of Delta outflow and the location of the salt and freshwater interface in the estuary on Delta Smelt populations. This flow-augmentation effort will occur in 2017 and subsequent years and will inform possible actions under a new Biological Opinion for Delta Smelt (see below). Pursuant to the Strategy, Reclamation and DWR will provide up to an additional 250,000 acre-feet per year of outflow above current SWRCB requirements.

(iii) Other elements within the Strategy will focus on additional stressors affecting the environmental health of the Bay-Delta. For example, enhancing the Delta's food web and in turn, providing more food resources for Delta Smelt is the focus of one project. Another element planned for 2017 is aimed at reducing invasive weeds which impact Delta Smelt. The Strategy also highlights several restoration projects with high potential to benefit Delta Smelt that are currently being implemented or due to be implemented in the near future.

(4) Sacramento Winter-Run Chinook Salmon Species in the Spotlight Action Plan.

(i) In 2014, NOAA Fisheries adopted a plan to recover ESA-listed salmon and steelhead in the Central Valley. The recovery plan is voluntary and, thus, the success of efforts depends on partnerships and cooperation to ensure implementation is proceeding on actions that will result in long-term species' recovery. The 2016 NMFS Action Plan for Sacramento River Winter-run Chinook Salmon (Action Plan) focuses on five keys actions to be taken by 2020 to accelerate recovery. Three actions focus on improving management of Shasta reservoir cold water storage, restoring and providing access to Battle Creek Habitat, and managing winter and early spring Delta conditions to improve juvenile survival.

(ii) Of particular importance for both California and the United States are the Action Plan's two other proposed actions: to improve Yolo Bypass fish habitat and fish passage, and to reintroduce Winter-run Chinook above Shasta Reservoir. A Draft EIS/EIR on the Yolo Bypass, is anticipated in 2017. Improving fish habitat and passage in the bypass is also a focus of California EcoRestore.

(5) Reinitiation of Section 7 Consultation on Coordinated Long-Term Operation (LTO) of the CVP and SWP. On August 2, 2016, Reclamation and DWR requested reinitiation of Section 7 consultation with FWS and NMFS on the LTO of the CVP and the SWP due to new information related to the ongoing drought and recent data showing low population levels of Delta Smelt and Winter-run Chinook salmon. New information is also available based on the ongoing work of collaborative science processes. As part of this reevaluation, Reclamation and DWR will consider new information developed since the issuance of FWS and NMFS Biological Opinions issued in 2008 and 2009, respectively, including new and planned CVP and SWP facilities, updated drought conditions and operations, ecosystem and climate conditions, and other information as appropriate.

(6) Bay-Delta Water Quality Control Plan.

(i) The SWRCB is currently updating its 2006 Bay-Delta Plan and flow objectives for priority tributaries to the Delta to protect beneficial uses in the Bay-Delta watershed, including fish and wildlife. The Bay-Delta Plan is being updated in four phases. Phase 1 focuses on flow requirements in the San Joaquin River watershed—specifically the three main tributaries of the Stanislaus, Tuolumne, and Merced Rivers—and salinity in the southern Delta. Phase 2 addresses new inflow requirements for the Sacramento River, its tributaries, and eastside tributaries to the Delta, changes to Delta outflow requirements, new and modified interior Delta flow requirements, and new requirements for cold water habitat. Recently, SWRCB staff released a draft proposal for Phase 1 of the update. The SWRCB's schedule for the Phase 2 update runs from the fall of 2016 to the spring of 2018. On October 19, 2016, the SWRCB staff released a Draft Scientific Report for Sacramento River and Delta Flow Requirements to identify new flow regimes that could help improve the aquatic ecosystems in these areas.

(ii) The SWRCB will update its implementation program to achieve these objectives in Phase 3. Implementation will include monitoring and special studies to fill information needs and to evaluate the effectiveness of the new objectives and their impacts. Responsibility for implementing flow objectives will be assigned through water right actions and water quality actions, including Federal Energy Regulatory Commission hydropower licensing processes. Phase 4 will involve developing and implementing flow objectives for priority Delta tributaries not included in earlier phases.

(iii) The CNRA and CDFW have begun discussions with key stakeholders in the San Joaquin River basin to explore the potential for agreement on plans to meet SWRCB flow objectives, and have asked Reclamation to join the discussions concerning CVP water and contractors.

Sec. 4 Direction to Complete California Water Resource Actions. As the preceding discussion makes clear, there are a number of extremely important California water resource issues where the Department has critical responsibilities. Action on these issues is essential to implementing a comprehensive strategy in California that provides for greater drought resiliency, safeguards communities against the long-term effects of climate change, and achieves the State's co-equal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the environmental quality of the Bay-Delta. In some cases, the actions are necessary to ensure compliance with applicable Federal and State environmental laws. Given the importance of these actions and the need for continuity, stability, and the avoidance of protracted litigation, relevant bureaus within the Department are directed to carry out the following actions:

a. CWF Environmental Review. Reclamation and FWS will allocate available resources, as necessary, to complete the Section 7 Biological Opinions and a ROD for the EIR/EIS on CWF as set forth below.

(1) EIR/EIS. Reclamation, as the lead Federal agency for NEPA, along with DWR as the California Environmental Quality Act lead agency, completed the Final EIR/EIS for CWF and published a Notice of Availability in the Federal Register on December 30, 2016. The Department, working with the State and NMFS, will review and consider any information received

after publication of the Final EIR/EIS and upon receipt of the necessary Biological Opinions (timing set forth below), and after considering all relevant information, will be prepared to sign a ROD for CWF. During this period, Reclamation will continue to work with DWR and other appropriate entities on a range of strategies and options to appropriately split the costs of CWF between the SWP and CVP water users and to determine an appropriate role for the Federal Government in participating in CWF given the projected public benefits.

(2) Section 7. The FWS, in coordination with NMFS and the CDFW, will, upon consideration of all relevant information received from Reclamation and DWR, issue an initial Draft Biological Opinion for CWF in January 2017 and a final Biological Opinion by April 2017.

(i) Peer Review. Prior to providing Reclamation and DWR its Draft Biological Opinion, FWS will make available for peer review through a rigorous scientific evaluation the analysis of the effects to aquatic species that it intends to include in the Draft Biological Opinion. The FWS will incorporate such revisions as it deems appropriate in light of the peer review into a final Draft Biological Opinion that it will complete by March 2017.

(ii) Change in Point of Diversion on CVP Water Rights. The Department will seek negotiated resolution of disputes arising before the SWRCB over the proposed change in point of diversion for CVP water rights. Reclamation, working with the Office of the Solicitor, will coordinate settlements with DWR and/or CNRA where appropriate.

b. Collaborative Delta Science Engagement Process. Reclamation, FWS, and USGS will work collaboratively with NMFS, DWR, and CDFW to utilize the Adaptive Management Framework (AMF) developed as part of CWF to help guide scientific studies and monitoring, assist with CVP and SWP operations, and achieve the co-equal goals for the Bay-Delta. New science proposals shall be subject to review under existing science review processes such as the Collaborative Science Adaptive Management Process (CSAMP), Interagency Ecological Program (IEP), and the Structured Decision Making framework used in connection with the Central Valley Project Improvement Act.

(1) As part of Collaborative Delta Science Engagement, the Department will coordinate internally and with the State and NMFS to develop priorities for funding. In order to ensure effective implementation of the AMF, State and Department bureaus will collaborate prior to release of the President's budget for each fiscal year to establish appropriate resource needs for the upcoming year and future years.

(2) Implementation of the AMF shall include an annual review process that reviews objectives, successes, and areas to be improved. The annual review shall include development of innovative approaches to refine monitoring and restoration activities that measure species populations. The process shall include collaboration among agencies to explore potential efficiencies in funding, expenditures, and organizational structure(s). The annual review results shall be made available to the public.

c. Delta Smelt Resiliency Strategy. Implementation of the Strategy during the next several years is an essential step in addressing near-term and long-term risk to the species and water

supplies. Reclamation and FWS will closely coordinate with DWR, CDFW, NMFS, and others in implementing all facets of the Strategy.

(1) **Delta Smelt Outflow Augmentation.** Reclamation, in coordination with DWR, will prioritize resources to acquire or otherwise make available up to 250,000 acre-feet per year of outflow above current SWRCB requirements. This additional outflow may include using water transfers, changes in exports from the Bay-Delta, releases from upstream storage, or other measures. In order to implement this Strategy, the following shall occur:

(i) The FWS, in coordination with CDFW and NMFS, and working through appropriate collaborative science processes, will annually, until the completion of the reinitiated LTO consultation, provide to Reclamation and DWR a detailed description of specific physical and biological objectives and species needs for Delta Smelt during the spring and summer. This work has already started, and the first iteration is expected in early 2017. The objectives will be provided based on the best available science and will provide specific physical and biological goals and species benefits that are anticipated to be achieved during the water year as a result of outflow augmentation. The objectives will be provided to Reclamation and DWR by December 31 of each year.

(ii) Reclamation, in coordination with DWR, will annually, until the completion of the re-initiated consultation, provide a Draft Delta Smelt Outflow Augmentation Plan (Plan) by March 1 to FWS. (As stated above, the work on the first iteration of objectives for this effort has been started and is expected in the early part of 2017. As a result, the agencies may not be able to complete the work by March 1 in 2017). The March 1 target is expected to be met in subsequent years when FWS, in coordination with CDFW and NMFS, provides objectives by December 31). The Plan will address strategies for meeting FWS and NMFS objectives for the water year, including, but not limited to, mechanisms for monitoring the effect of outflow actions on Delta Smelt and providing operational targets to meet the physical and biological objectives.

(iii) Reclamation shall complete a NEPA review of the Delta Smelt Outflow Action and shall initiate ESA Section 7 consultation, if necessary. The review and consultation must be completed prior to the implementation of actions identified in the Plan.

(iv) In developing strategies for obtaining water for additional outflows through purchase or otherwise, Reclamation and FWS will, to the extent practicable, coordinate with Federal and State water contractors in identifying and acquiring any additional outflows. Such coordination may include combining resources to make joint purchases to achieve the greatest benefit on cost.

(2) **Rio Vista Estuarine Research Station and Fish Technology Center.** The environmental review for the Rio Vista Estuarine Research Station and Fish Technology Center (FTC) is nearly complete. Reclamation and FWS will work collaboratively with the State and NMFS to pursue this facility and to develop a funding strategy with a goal of completing the construction of the facility by 2019. The new Delta field station will consolidate existing IEP Delta Smelt monitoring and research activities, as well as additional salmonid research activities. Construction of a facility to research Delta Smelt life history and develop captive propagation tools is necessary to ensure persistence of the species between the present and future achievement of

environmental conditions that will allow the species to persist in the wild. The FTC will maintain a refugial population of Delta Smelt that is genetically representative of the population in the wild. This genetic refugia population will serve as a source of fish for reintroduction, should they become extirpated in the wild, or as a source of fish for supplementation, should supplementation be deemed necessary for recovery.

d. Completion of Reinitiation of Consultation on Coordinated Long-Term Operations of the CVP and the SWP.

(1) Consultation Agreement. Reclamation, FWS, NMFS, DWR, and CDFW recently executed a Memorandum of Understanding that commits to the respective roles and responsibilities of each agency in implementing development, analysis, and completion of the new LTO Biological Opinions. Reclamation will secure contract support for the consultation as soon as possible.

(2) Project Synopsis. The bureau heads from Reclamation and FWS will meet regularly with their counterparts at NMFS, DWR, and CDFW and confer on potential activities including, but not limited to, water operations, facility modifications, restoration, and monitoring, that could be addressed in the reinitiated consultation and that may be analyzed under both NEPA and the ESA.

(3) NEPA. Reclamation shall work to develop alternatives, perform analyses, and provide an impact analysis on different ways to achieve CVP objectives, including managing for water supply and natural resources. The NEPA process shall include an expansive stakeholder engagement process.

(4) ESA. Reclamation shall work collaboratively with DWR, FWS, NMFS, and CDFW to perform analyses on a Proposed Action for the operation of the CVP and SWP to address impacts to ESA-listed species. The FWS shall provide technical information to inform the Biological Assessment development process, as needed. Upon receiving a complete Biological Assessment, FWS will prepare a Biological Opinion in coordination with NMFS for the LTO.

(5) Transparent Collaborative Science. Reclamation and FWS, consistent with P.L. 114-322, sec. 4004, will work with independent scientist and stakeholder groups throughout the LTO development process to review scientific information and determine whether physical and biological objectives would be achieved by the proposals under consideration. The scientist and stakeholder groups may include USGS, CSAMP, IEP, or others. Reclamation and FWS will also consider the effects of other interrelated actions that affect Delta habitat conditions, particularly the SWRCB's Bay-Delta Water Quality Control Plan.

e. Active Engagement in Development of Voluntary Agreements for Flow Requirements and Coordination on Flows with ESA Requirements. Reclamation and FWS shall work with the SWRCB, CDFW, and CNRA to provide information to SWRCB as part of its Bay-Delta Plan initiative. This shall include coordination with CNRA in at least the following areas:

(1) Engagement with key stakeholders to develop voluntary agreements to increase flows and integrate flow and non-flow measures.

(2) Providing information necessary for the SWRCB to establish water quality standards to meet fish, wildlife, and ecosystem goals.

(3) Ensuring that requirements developed through the Bay-Delta Plan process are considered in assessing requirements.

(4) Compliance under the CVP and SWP LTO Biological Opinions.

f. Winter-Run Chinook Species in the Spotlight Action Plan. Implementation of the Species in the Spotlight Action Plan is an essential element for reducing near-term and long-term risks to this species. The Plan was developed by NMFS in 2016 as a high-priority action plan to guide allocation of NMFS internal resources, as well as attract funding from partner agencies and stakeholders. Reclamation and FWS will work with NMFS to incorporate spotlight actions into priorities developed under the AMF.

Sec. 5 **Implementation.** The Assistant Secretary – Water and Science and the Assistant Secretary for Fish and Wildlife and Parks are responsible for ensuring implementation of this Order.

Sec. 6 **Expiration Date.** This Order is effective immediately. It shall remain in effect until its provisions are completed, amended, superseded, or revoked, whichever comes first. The termination of the Order will not nullify the requirements effected herein.



Secretary of the Interior

Date: **JAN 03 2017**

David Bernhardt

From: Bernhardt, David L.
Sent: Wednesday, January 4, 2017 11:32 AM
To: Johnny Amaral
Subject:
Attachments: sec_order_no._3343_cal_water.pdf; ATT00001.txt

https://www.doi.gov/sites/doi.gov/files/uploads/sec_order_no.3343_cal_water.pdf

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THE SECRETARY OF THE INTERIOR
WASHINGTON

ORDER NO. 3343

Subject: Actions to Address Effects of Drought and Climate Change on California's Water Supply and Listed Species

Sec. 1 Purpose. The Department of the Interior (Department), through the Bureau of Reclamation (Reclamation) and the U.S. Fish and Wildlife Service (FWS), and informed by the science of the U.S. Geological Survey (USGS), has many responsibilities for managing the State of California's (State) water resources and aquatic ecosystems. Long-term drought, fueled by climate change, has adversely affected the State's water supplies, exacerbated effects of water operations on imperiled species, impacted water quality, and added to the stressors affecting the health of California's unique ecosystems, particularly the Sacramento-San Joaquin Delta (Bay-Delta).

The purpose of this Order is to document and continue a Department-wide approach and range of actions that, in coordination with the State's implementation of the 2009 Delta Reform Act and the 2014 California Water Action Plan, addresses the effects of drought and climate change on the State's water resources over both the short term and the long term. The Order seeks to facilitate the integration of State and Federal efforts to optimize the many interests in the Bay-Delta, including the needs of agriculture and municipalities, while simultaneously fostering conservation of species found throughout the ecosystem.

A number of collaborative water resource initiatives involving the State, the Department, and other agencies and stakeholders are currently being carried out in California. The initiatives include the California WaterFix; California EcoRestore; Implementation of a Delta Smelt Resiliency Strategy; Implementation of the Sacramento Winter-Run Chinook Salmon Action Plan; Reinitiation of Endangered Species Act (ESA) Section 7 Consultation on the Coordinated Long-Term Operations of the Central Valley Project (CVP) and State Water Project (SWP); and the State Water Resources Control Board (SWRCB) Process to Update the Bay-Delta Water Quality Control Plan (Bay-Delta Plan).

This Order provides direction for the Department, and particularly Reclamation and FWS, with scientific support and technical advice from USGS, to complete the technical, scientific, and analytical work necessary to make permitting, regulatory, and other decisions associated with these initiatives. While many of these initiatives are targeted to benefit specific species and increase water supply reliability, it is anticipated that the restoration actions will also improve habitat conditions for other at-risk species.

Sec. 2 Authorities. This Order is issued under statutory authority that includes, but is not limited to, the Reclamation Laws (Act of June 17, 1902, and all acts amendatory thereof and supplementary thereto); the Central Valley Project Improvement Act (P.L. 102-575, Title XXXIV); the Endangered Species Act (16 U.S.C. 1631, et seq.); the Fish and Wildlife Coordination Act (16 U.S.C. 1661, et seq.); the National Environmental Policy Act (42 U.S.C. 1201, et seq.); and authority provided by Section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), as amended.

Sec. 3 **Background.**

a. Recent Operations, Water Supply Trends, and Status of Species.

(1) Reclamation's CVP and California's SWP are among the largest water conveyance systems in the world, delivering about 9-10 million acre-feet of water in non-drought years to farms, cities, and ecosystems throughout the State. Since most precipitation falls in the northern part of the State, and most water use is in the southern part, the combined systems must convey vast amounts of water each year through the Bay-Delta into State and Federal canals that carry the water to the agricultural Central Valley, and metropolitan areas in the San Francisco Bay area and southern California. Over time, many factors, including water operations have caused a serious decline in the world-renowned Bay-Delta ecosystem and the salmon and other fish populations dependent on it. In recent years, a scientific consensus has developed, particularly in view of projected sea level rise and other climate impacts affecting water supplies, that a broad set of actions is necessary, including upgrading or modifying the Federal and State water conveyance system through the Bay-Delta to improve the ability to provide reliable water supplies and help restore a healthy Bay-Delta ecosystem.

(2) The last decade has been dominated by periods of severely reduced snowpack, reduced precipitation, and significant groundwater withdrawals. Estimates indicate Water Year (WY) 2016 was the ninth of 10 years with below-average runoff.

(3) Entering WY 2016, CVP carryover reservoir storage was only 2.9 million acre-feet, which was just 24 percent of capacity and 47 percent of the 15-year average. Conditions have slightly improved over the last year, as the CVP entered WY 2017 with 4.9 million acre-feet of water in the 6 key CVP reservoirs, which is 82 percent of the 15-year average annual carryover of 6.0 million acre-feet. Storage in State facilities continues to be similarly impacted by drought, with current storage in the Oroville Reservoir and in the State portion of San Luis Reservoir at roughly 60 percent of average entering WY 2017.

(4) Impacts to fish species have also been significant over this time period. The population of Delta Smelt, an annual species found only in the Delta, is at an all-time low. The Spring Kodiak Trawl Index for Delta Smelt has continued a downward slide and is 90 percent lower in 2016 than the previous historic low.

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(i) Temperatures are projected to increase steadily during the century, with changes generally increasing from about 1.6 degrees Fahrenheit (°F) in the early 21st century to almost 4.8 °F in the Sierra Nevada Mountains late in the 21st century.

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(i) Over the past decade, a broad scientific consensus has developed that continuation of status quo water and ecosystem management in the Bay-Delta is unsustainable, and that the only way to avoid greatly diminishing Delta water exports would be to construct an alternate water conveyance structure through the Delta. (See e.g., “Delta Vision,” Governor’s Blue Ribbon Task Force (2007); “Managing California’s Water – From Conflict to Reconciliation,” Public Policy Institute of California (2011); “Sustainable Water and Environmental Management in the California Bay-Delta,” National Research Council of the National Academies (2012)). In 2006, the Bay-Delta Conservation Plan (BDCP) planning process began to address the myriad issues affecting the Bay-Delta by evaluating new infrastructure and habitat improvement measures. Central to the BDCP was a proposed new conveyance facility for the SWP and CVP that would divert water from north of the Delta, together with a plan to restore 100,000 acres of Bay-Delta habitat. The BDCP was a combined Habitat Conservation Plan under Section 10 of the Federal ESA and a Natural Community Conservation Plan under the California Natural Community Conservation Planning Act. In April 2015, the State revised the proposed project, separating the conveyance facility from the habitat restoration measures to form two separate efforts: California WaterFix (CWF) and California EcoRestore. The CWF is now being evaluated pursuant to Section 7 of the Federal ESA.

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(iv) ESA Section 7 Compliance. Reclamation, as the lead agency for ESA Section 7 consultation, coordinated with DWR, as the CWF project applicant, to prepare a Biological Assessment on CWF. Reclamation delivered the Final Biological Assessment to FWS and NMFS in August 2016, and formal consultation began in September 2016. An independent peer review of FWS and NOAA Biological Opinions' analyses of the CWF effects on aquatic species and designated critical habitats will be completed prior to finalization of these documents. The NMFS and FWS Biological Opinions are expected to be completed by April 2017. Upon receipt of the Biological Opinions, and coupled with the issuance of the Final EIR/EIS for the CWF on December 22, 2016, the Department will be in a position to issue a Record of Decision (ROD) on the project and DWR intends to issue its Notice of Determination.

(v) Petition for Change in Point of Diversion. Reclamation and DWR submitted to the SWRCB a joint petition for a change in water rights permits for the CVP and SWP in order to operate the CWF diversion and conveyance project. Part 1 of the SWRCB hearing, focused on potential injury to legal users of water, commenced in July 2016. Part 2 of the hearing, focused on effects to fish and wildlife, is expected to begin in the first half of 2017.

(2) California EcoRestore. In April 2015, the State launched California EcoRestore. The purpose of EcoRestore is to accelerate the restoration of tidal, riparian, and floodplain habitat in the Delta, targeting 30,000 acres of new habitat by the end of 2018. Since that launch, EcoRestore has achieved concrete results and expects to complete or have under construction over 7,370 acres of tidal and floodplain restoration, 2,680 feet of riparian habitat restoration, and 3 fish passage projects by 2017. There is scientific consensus about the need for and the benefit of habitat restoration in the Delta. Restoration in the Delta pursuant to EcoRestore will assist each of the five State and Federal agencies with their individual and collective responsibilities.

(3) Delta Smelt Resiliency Strategy.

(i) In July 2016, in response to significant population declines, the California Natural Resources Agency (CNRA) issued the Delta Smelt Resiliency Strategy (Strategy). The Strategy consists of 13 actions that include augmenting outflow, enhancing the food web, reducing nonnative invasive aquatic weeds and predatory fish, and restoring habitat in key Delta Smelt areas. The proposed actions are intended to address the near-term needs of Delta Smelt

and to promote their resiliency to adverse and varied habitat conditions.

(ii) The Strategy includes an Outflow Augmentation element aimed at improving an understanding of the effects of Delta outflow and the location of the salt and freshwater interface in the estuary on Delta Smelt populations. This flow-augmentation effort will occur in 2017 and subsequent years and will inform possible actions under a new Biological Opinion for Delta Smelt (see below). Pursuant to the Strategy, Reclamation and DWR will provide up to an additional 250,000 acre-feet per year of outflow above current SWRCB requirements.

(iii) Other elements within the Strategy will focus on additional stressors affecting the environmental health of the Bay-Delta. For example, enhancing the Delta's food web and in turn, providing more food resources for Delta Smelt is the focus of one project. Another element planned for 2017 is aimed at reducing invasive weeds which impact Delta Smelt. The Strategy also highlights several restoration projects with high potential to benefit Delta Smelt that are currently being implemented or due to be implemented in the near future.

(4) Sacramento Winter-Run Chinook Salmon Species in the Spotlight Action Plan.

(i) In 2014, NOAA Fisheries adopted a plan to recover ESA-listed salmon and steelhead in the Central Valley. The recovery plan is voluntary and, thus, the success of efforts depends on partnerships and cooperation to ensure implementation is proceeding on actions that will result in long-term species' recovery. The 2016 NMFS Action Plan for Sacramento River Winter-run Chinook Salmon (Action Plan) focuses on five keys actions to be taken by 2020 to accelerate recovery. Three actions focus on improving management of Shasta reservoir cold water storage, restoring and providing access to Battle Creek Habitat, and managing winter and early spring Delta conditions to improve juvenile survival.

(ii) Of particular importance for both California and the United States are the Action Plan's two other proposed actions: to improve Yolo Bypass fish habitat and fish passage, and to reintroduce Winter-run Chinook above Shasta Reservoir. A Draft EIS/EIR on the Yolo Bypass, is anticipated in 2017. Improving fish habitat and passage in the bypass is also a focus of California EcoRestore.

(5) Reinitiation of Section 7 Consultation on Coordinated Long-Term Operation (LTO) of the CVP and SWP. On August 2, 2016, Reclamation and DWR requested reinitiation of Section 7 consultation with FWS and NMFS on the LTO of the CVP and the SWP due to new information related to the ongoing drought and recent data showing low population levels of Delta Smelt and Winter-run Chinook salmon. New information is also available based on the ongoing work of collaborative science processes. As part of this reevaluation, Reclamation and DWR will consider new information developed since the issuance of FWS and NMFS Biological Opinions issued in 2008 and 2009, respectively, including new and planned CVP and SWP facilities, updated drought conditions and operations, ecosystem and climate conditions, and other information as appropriate.

(6) Bay-Delta Water Quality Control Plan.

(i) The SWRCB is currently updating its 2006 Bay-Delta Plan and flow objectives for priority tributaries to the Delta to protect beneficial uses in the Bay-Delta watershed, including fish and wildlife. The Bay-Delta Plan is being updated in four phases. Phase 1 focuses on flow requirements in the San Joaquin River watershed—specifically the three main tributaries of the Stanislaus, Tuolumne, and Merced Rivers—and salinity in the southern Delta. Phase 2 addresses new inflow requirements for the Sacramento River, its tributaries, and eastside tributaries to the Delta, changes to Delta outflow requirements, new and modified interior Delta flow requirements, and new requirements for cold water habitat. Recently, SWRCB staff released a draft proposal for Phase 1 of the update. The SWRCB's schedule for the Phase 2 update runs from the fall of 2016 to the spring of 2018. On October 19, 2016, the SWRCB staff released a Draft Scientific Report for Sacramento River and Delta Flow Requirements to identify new flow regimes that could help improve the aquatic ecosystems in these areas.

(ii) The SWRCB will update its implementation program to achieve these objectives in Phase 3. Implementation will include monitoring and special studies to fill information needs and to evaluate the effectiveness of the new objectives and their impacts. Responsibility for implementing flow objectives will be assigned through water right actions and water quality actions, including Federal Energy Regulatory Commission hydropower licensing processes. Phase 4 will involve developing and implementing flow objectives for priority Delta tributaries not included in earlier phases.

(iii) The CNRA and CDFW have begun discussions with key stakeholders in the San Joaquin River basin to explore the potential for agreement on plans to meet SWRCB flow objectives, and have asked Reclamation to join the discussions concerning CVP water and contractors.

Sec. 4 Direction to Complete California Water Resource Actions. As the preceding discussion makes clear, there are a number of extremely important California water resource issues where the Department has critical responsibilities. Action on these issues is essential to implementing a comprehensive strategy in California that provides for greater drought resiliency, safeguards communities against the long-term effects of climate change, and achieves the State's co-equal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the environmental quality of the Bay-Delta. In some cases, the actions are necessary to ensure compliance with applicable Federal and State environmental laws. Given the importance of these actions and the need for continuity, stability, and the avoidance of protracted litigation, relevant bureaus within the Department are directed to carry out the following actions:

a. CWF Environmental Review. Reclamation and FWS will allocate available resources, as necessary, to complete the Section 7 Biological Opinions and a ROD for the EIR/EIS on CWF as set forth below.

(1) EIR/EIS. Reclamation, as the lead Federal agency for NEPA, along with DWR as the California Environmental Quality Act lead agency, completed the Final EIR/EIS for CWF and published a Notice of Availability in the Federal Register on December 30, 2016. The Department, working with the State and NMFS, will review and consider any information received

after publication of the Final EIR/EIS and upon receipt of the necessary Biological Opinions (timing set forth below), and after considering all relevant information, will be prepared to sign a ROD for CWF. During this period, Reclamation will continue to work with DWR and other appropriate entities on a range of strategies and options to appropriately split the costs of CWF between the SWP and CVP water users and to determine an appropriate role for the Federal Government in participating in CWF given the projected public benefits.

(2) Section 7. The FWS, in coordination with NMFS and the CDFW, will, upon consideration of all relevant information received from Reclamation and DWR, issue an initial Draft Biological Opinion for CWF in January 2017 and a final Biological Opinion by April 2017.

(i) Peer Review. Prior to providing Reclamation and DWR its Draft Biological Opinion, FWS will make available for peer review through a rigorous scientific evaluation the analysis of the effects to aquatic species that it intends to include in the Draft Biological Opinion. The FWS will incorporate such revisions as it deems appropriate in light of the peer review into a final Draft Biological Opinion that it will complete by March 2017.

(ii) Change in Point of Diversion on CVP Water Rights. The Department will seek negotiated resolution of disputes arising before the SWRCB over the proposed change in point of diversion for CVP water rights. Reclamation, working with the Office of the Solicitor, will coordinate settlements with DWR and/or CNRA where appropriate.

b. Collaborative Delta Science Engagement Process. Reclamation, FWS, and USGS will work collaboratively with NMFS, DWR, and CDFW to utilize the Adaptive Management Framework (AMF) developed as part of CWF to help guide scientific studies and monitoring, assist with CVP and SWP operations, and achieve the co-equal goals for the Bay-Delta. New science proposals shall be subject to review under existing science review processes such as the Collaborative Science Adaptive Management Process (CSAMP), Interagency Ecological Program (IEP), and the Structured Decision Making framework used in connection with the Central Valley Project Improvement Act.

(1) As part of Collaborative Delta Science Engagement, the Department will coordinate internally and with the State and NMFS to develop priorities for funding. In order to ensure effective implementation of the AMF, State and Department bureaus will collaborate prior to release of the President's budget for each fiscal year to establish appropriate resource needs for the upcoming year and future years.

(2) Implementation of the AMF shall include an annual review process that reviews objectives, successes, and areas to be improved. The annual review shall include development of innovative approaches to refine monitoring and restoration activities that measure species populations. The process shall include collaboration among agencies to explore potential efficiencies in funding, expenditures, and organizational structure(s). The annual review results shall be made available to the public.

c. Delta Smelt Resiliency Strategy. Implementation of the Strategy during the next several years is an essential step in addressing near-term and long-term risk to the species and water

supplies. Reclamation and FWS will closely coordinate with DWR, CDFW, NMFS, and others in implementing all facets of the Strategy.

(1) **Delta Smelt Outflow Augmentation.** Reclamation, in coordination with DWR, will prioritize resources to acquire or otherwise make available up to 250,000 acre-feet per year of outflow above current SWRCB requirements. This additional outflow may include using water transfers, changes in exports from the Bay-Delta, releases from upstream storage, or other measures. In order to implement this Strategy, the following shall occur:

(i) The FWS, in coordination with CDFW and NMFS, and working through appropriate collaborative science processes, will annually, until the completion of the reinitiated LTO consultation, provide to Reclamation and DWR a detailed description of specific physical and biological objectives and species needs for Delta Smelt during the spring and summer. This work has already started, and the first iteration is expected in early 2017. The objectives will be provided based on the best available science and will provide specific physical and biological goals and species benefits that are anticipated to be achieved during the water year as a result of outflow augmentation. The objectives will be provided to Reclamation and DWR by December 31 of each year.

(ii) Reclamation, in coordination with DWR, will annually, until the completion of the re-initiated consultation, provide a Draft Delta Smelt Outflow Augmentation Plan (Plan) by March 1 to FWS. (As stated above, the work on the first iteration of objectives for this effort has been started and is expected in the early part of 2017. As a result, the agencies may not be able to complete the work by March 1 in 2017). The March 1 target is expected to be met in subsequent years when FWS, in coordination with CDFW and NMFS, provides objectives by December 31). The Plan will address strategies for meeting FWS and NMFS objectives for the water year, including, but not limited to, mechanisms for monitoring the effect of outflow actions on Delta Smelt and providing operational targets to meet the physical and biological objectives.

(iii) Reclamation shall complete a NEPA review of the Delta Smelt Outflow Action and shall initiate ESA Section 7 consultation, if necessary. The review and consultation must be completed prior to the implementation of actions identified in the Plan.

(iv) In developing strategies for obtaining water for additional outflows through purchase or otherwise, Reclamation and FWS will, to the extent practicable, coordinate with Federal and State water contractors in identifying and acquiring any additional outflows. Such coordination may include combining resources to make joint purchases to achieve the greatest benefit on cost.

(2) **Rio Vista Estuarine Research Station and Fish Technology Center.** The environmental review for the Rio Vista Estuarine Research Station and Fish Technology Center (FTC) is nearly complete. Reclamation and FWS will work collaboratively with the State and NMFS to pursue this facility and to develop a funding strategy with a goal of completing the construction of the facility by 2019. The new Delta field station will consolidate existing IEP Delta Smelt monitoring and research activities, as well as additional salmonid research activities. Construction of a facility to research Delta Smelt life history and develop captive propagation tools is necessary to ensure persistence of the species between the present and future achievement of

environmental conditions that will allow the species to persist in the wild. The FTC will maintain a refugial population of Delta Smelt that is genetically representative of the population in the wild. This genetic refugia population will serve as a source of fish for reintroduction, should they become extirpated in the wild, or as a source of fish for supplementation, should supplementation be deemed necessary for recovery.

d. Completion of Reinitiation of Consultation on Coordinated Long-Term Operations of the CVP and the SWP.

(1) Consultation Agreement. Reclamation, FWS, NMFS, DWR, and CDFW recently executed a Memorandum of Understanding that commits to the respective roles and responsibilities of each agency in implementing development, analysis, and completion of the new LTO Biological Opinions. Reclamation will secure contract support for the consultation as soon as possible.

(2) Project Synopsis. The bureau heads from Reclamation and FWS will meet regularly with their counterparts at NMFS, DWR, and CDFW and confer on potential activities including, but not limited to, water operations, facility modifications, restoration, and monitoring, that could be addressed in the reinitiated consultation and that may be analyzed under both NEPA and the ESA.

(3) NEPA. Reclamation shall work to develop alternatives, perform analyses, and provide an impact analysis on different ways to achieve CVP objectives, including managing for water supply and natural resources. The NEPA process shall include an expansive stakeholder engagement process.

(4) ESA. Reclamation shall work collaboratively with DWR, FWS, NMFS, and CDFW to perform analyses on a Proposed Action for the operation of the CVP and SWP to address impacts to ESA-listed species. The FWS shall provide technical information to inform the Biological Assessment development process, as needed. Upon receiving a complete Biological Assessment, FWS will prepare a Biological Opinion in coordination with NMFS for the LTO.

(5) Transparent Collaborative Science. Reclamation and FWS, consistent with P.L. 114-322, sec. 4004, will work with independent scientist and stakeholder groups throughout the LTO development process to review scientific information and determine whether physical and biological objectives would be achieved by the proposals under consideration. The scientist and stakeholder groups may include USGS, CSAMP, IEP, or others. Reclamation and FWS will also consider the effects of other interrelated actions that affect Delta habitat conditions, particularly the SWRCB's Bay-Delta Water Quality Control Plan.

e. Active Engagement in Development of Voluntary Agreements for Flow Requirements and Coordination on Flows with ESA Requirements. Reclamation and FWS shall work with the SWRCB, CDFW, and CNRA to provide information to SWRCB as part of its Bay-Delta Plan initiative. This shall include coordination with CNRA in at least the following areas:

(1) Engagement with key stakeholders to develop voluntary agreements to increase flows and integrate flow and non-flow measures.

(2) Providing information necessary for the SWRCB to establish water quality standards to meet fish, wildlife, and ecosystem goals.

(3) Ensuring that requirements developed through the Bay-Delta Plan process are considered in assessing requirements.

(4) Compliance under the CVP and SWP LTO Biological Opinions.

f. Winter-Run Chinook Species in the Spotlight Action Plan. Implementation of the Species in the Spotlight Action Plan is an essential element for reducing near-term and long-term risks to this species. The Plan was developed by NMFS in 2016 as a high-priority action plan to guide allocation of NMFS internal resources, as well as attract funding from partner agencies and stakeholders. Reclamation and FWS will work with NMFS to incorporate spotlight actions into priorities developed under the AMF.

Sec. 5 **Implementation.** The Assistant Secretary – Water and Science and the Assistant Secretary for Fish and Wildlife and Parks are responsible for ensuring implementation of this Order.

Sec. 6 **Expiration Date.** This Order is effective immediately. It shall remain in effect until its provisions are completed, amended, superseded, or revoked, whichever comes first. The termination of the Order will not nullify the requirements effected herein.



Secretary of the Interior

Date: **JAN 03 2017**

David Bernhardt

From: Jason Peltier

Sent: Wednesday, January 4, 2017 11:32 AM

To: Johnny Amaral; Dennis Cardoza; David Bernhardt; Ara Azhderian; Jon Rubin; Shelley Ostrowski; Philip Williams

Subject: FW: Secretary Jewell Lays Out Strategy to Address Impacts of Drought and Climate Change in California

From: Dan Keppen [mailto:dankeppen@charter.net]

Sent: Wednesday, January 4, 2017 10:29 AM

To: Jason Peltier <jason.peltier@sldmwa.org>

Subject: FW: Secretary Jewell Lays Out Strategy to Address Impacts of Drought and Climate Change in California

Was this expected?

From: U.S. Department of the Interior [mailto:interior_news@updates.interior.gov]

Sent: Wednesday, January 4, 2017 10:05 AM

To: dankeppen@charter.net

Subject: Secretary Jewell Lays Out Strategy to Address Impacts of Drought and Climate Change in California



Date: January 4, 2017

Contact: Interior_press@ios.doi.gov

Secretary Jewell Lays Out Strategy to Address Impacts of Drought and Climate Change in California

Secretarial Order calls for actions by Interior and its bureaus to secure water supplies while providing environmental protection

WASHINGTON — U.S. Secretary of the Interior Sally Jewell today issued a [Secretarial Order](#) directing the Department of the Interior and its bureaus to take timely actions to help address the effects of drought and climate change on California's water supply and imperiled wildlife.

“Long-term drought, fueled by climate change, has adversely affected the state's water supplies, exacerbated effects of water operations on imperiled species, impacted water quality, and added to the stressors affecting the health of California's unique ecosystems, particularly the Sacramento-San Joaquin Delta (Bay-Delta),” the order states.

“This Secretarial Order is a practical and broad-based strategy to help protect California’s water lifeline for present and future generations,” said Deputy Secretary Michael L. Connor. “This order will ensure the integration of the Department’s actions with those of the State of California to provide a reliable drinking water supply for the public, sustain California’s agriculture, and continue to protect the Bay Delta ecosystem and enhance the conservation of species.”

“Today’s action tracks closely with the state’s multi-pronged Water Action Plan and commits the federal government to a timely review of the California WaterFix project,” said California Governor Edmund G. Brown Jr. “This state-federal partnership is what’s needed to improve water reliability for residents and farmers and protect vulnerable ecosystems.”

Developed in consultation with the state agencies and other federal agencies, the order specifies steps by Interior and its agencies to achieve “the State’s co-equal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the environmental quality of the Bay-Delta.”

The Secretarial Order issued today provides direction for the Department, and particularly Reclamation and FWS, with scientific support and technical advice from the USGS, to complete the technical, scientific, and analytical work necessary to make permitting, regulatory, and other decisions associated with various water initiatives. It calls for six actions:

1. California WaterFix Environmental Review. The order directs Interior’s Bureau of Reclamation and U.S. Fish and Wildlife Service (FWS) to allocate available resources, as necessary, to complete in a timely manner the Biological Opinions under Section 7 of the Endangered Species Act and a Record of Decision on the environmental documents for California WaterFix. [California released](#) a final environmental impact statement and a final environmental impact review on December 30, clearing the way for a final decision on WaterFix, which is the State’s plan to upgrade infrastructure in the estuary where the Sacramento and San Joaquin Rivers meet before flowing to San Francisco Bay. This will secure water supplies for 25 million people. Interior’s Reclamation was the lead federal agency on the environmental impact statement issued under the National Environmental Policy Act.

Today’s Secretarial Order directs FWS to take all necessary actions to issue an initial Draft Biological Opinion in January 2017 and a final Draft Biological Opinion by March 2017 after incorporating the results of independent scientific peer reviews. A final Biological Opinion is to be issued by April 2017. It specifies that the Department, working with the State and others, will promptly review and consider any information received after publication of the Final EIR/EIS and issuance of the Biological Opinions, and will then be prepared to sign a Record of Decision. This decision will be made by the next Secretary.

2. Collaborative Delta Science Engagement Process. The order directs Reclamation, FWS, and USGS to work collaboratively with the state and other federal agencies to use the Adaptive Management Framework developed as part of California WaterFix to help guide scientific studies and monitoring, assist with Central Valley Project and State Water Project operations, and achieve the co-equal goals for the Bay Delta. New science proposals will be subject to review under various existing science review processes. Implementation of the framework will include an annual review process that develops innovative approaches to the refinement of monitoring and restoration activities that measure species’ populations. Annual review results will be made available to the public.

3. Delta Smelt Resiliency Strategy. This strategy addresses both the risk to the critically endangered Delta smelt—formerly one of the most abundant fish in the Delta—and the risk to water supplies. The order directs Reclamation and FWS to closely coordinate with state and federal agencies and others in implementing all facets of the Strategy. During the next several years, Reclamation will acquire or otherwise make available up to 250,000 acre-feet/year of outflow above current state water quality permit requirements. This additional outflow may include using water transfers, changes in exports from the Bay-Delta, releases from upstream

storage, or other measures. Each year FWS must provide to Reclamation and the state a detailed description of specific physical and biological objectives and species needs for Delta Smelt during the spring and summer based on the best available science.

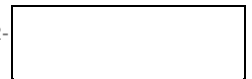
4. Re-initiation of Consultation under the Endangered Species Act on Coordinated Long-Term Operations of the Central Valley Project and State Water Project. The Secretarial order directs Reclamation and FWS to work with other state and federal agencies to carry out the work necessary to complete the recently re-initiated consultation on long term operations of the Central Valley Project and State Water Project.

5. Active Engagement in Development of Voluntary Agreements for Flow Requirements and Coordination on Flows with ESA Requirements. Reclamation and FWS will work with other agencies to provide information to the State Water Resources Control Board as part of its Bay-Delta Plan initiative. This will include coordination with the California Natural Resources Agency in at least the following areas: 1) engagement with key stakeholders to develop voluntary agreements to increase flows and integrate flow and non-flow measures; 2) providing information necessary to establish water quality standards to meet fish, wildlife, and ecosystem goals; and 3) ensuring that requirements developed through the Bay-Delta Plan process are considered in assessing requirements and compliance under the Biological Opinions related to the Central Valley Project and State Water Project.

6. Winter-run Chinook “Species in the Spotlight” Action Plan. The order underscores that implementation of the “Species in the Spotlight” Action Plan is an essential element of reducing both near-term and long-term risks to Winter-run Chinook salmon. This plan was developed by the National Marine Fisheries Service (NMFS) in 2016 as a high priority action plan that would guide allocation of NMFS resources, as well as attract funding from partner agencies and stakeholders. Reclamation and FWS will work with NMFS to incorporate spotlight actions into priorities developed under the Adaptive Management Framework.



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From: Johnny Amaral

Sent: Wednesday, January 4, 2017 11:27 AM

To: Jason Peltier; Ara Azhderian; David L. Bernhardt; Dennis Cardoza

Subject: Sally Jewell

What did she just do?

Best,

Johnny Amaral

Deputy General Manager - External Affairs

Westlands Water District

From: Johnny Amaral
Sent: Tuesday, January 3, 2017 12:50 PM
To: DCardoza@foley.com
CC: 'Denny Rehberg'; 'David Bernhardt'; 'Smith, Ryan A.'; 'Catherine Karen'
Subject: RE: Team lunch next Tuesday January 10th

Of course

-----Original Message-----

From: DCardoza@foley.com [<mailto:DCardoza@foley.com>]
Sent: Tuesday, January 3, 2017 11:41 AM
To: Johnny Amaral
Cc: Denny Rehberg; David Bernhardt; Smith, Ryan A.; Catherine Karen
Subject: Re: Team lunch next Tuesday January 10th

Johnny Jennifer and I are available if she is also invited. Dennis

Sent from my iPhone

Please excuse any auto correct errors

On Jan 3, 2017, at 1:44 PM, Johnny Amaral <jamaral@westlandswater.org<<mailto:jamaral@westlandswater.org>>> wrote:

Thanks Denny. Capitol Hill Club works for me. Please make a reservation. Westlands attendees are:

Tom Birmingham
Shelley Ostrowski
Don Peracchi
Judy Peracchi
William Bordeau
Johnny Amaral

From: Denny Rehberg [<mailto:DRehberg@mercuryllc.com>]
Sent: Tuesday, January 3, 2017 10:38 AM
To: Johnny Amaral
Cc: David Bernhardt; Dennis Cardoza; Smith, Ryan A.; Catherine Karen
Subject: Re: Team lunch next Tuesday January 10th

Yes, and I would offer Capitol Hill Club. I'm a member.

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[Mercury]<https://urldefense.proofpoint.com/v2/url?u=http-3A_www_mercuryllc.com&d=DgMFaQ&c=Rlm5WhGmPEr8srpDE4r86Q&r=yhMHKvJkYaWoH8bkmjCNM24pCPMnJRMu5cnOh9t0O7w&m=twdvhrFivuZv_YYB_I93BZK3-Yrz5CsTwBAb4w0twQ&s=acI4lBqgiUsmATfSGZwF1RAvzc6tpZAhfKQMHfutuQ&e=>>

Denny Rehberg

Co-Chairman

(US Congressman 2001-2013) 300 Tingey Street SE

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On Jan 3, 2017, at 11:35 AM, Johnny Amaral <jamaral@westlandswater.org<<mailto:jamaral@westlandswater.org>>> wrote:
As you know, there's a small group of Westlands staff and board members coming to DC next week for the hill reception on Tuesday the 10th. I'd like to have a lunch meeting in DC earlier in the day on the 10th somewhere on the Hill. A couple of questions:

1. Are you available?
2. Where should we have lunch?

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From: Emmerson, Catherine
Sent: Tuesday, January 3, 2017 12:49 PM
To: Denny Rehberg; Johnny Amaral
CC: David Bernhardt; Dennis Cardoza; Smith, Ryan A.
Subject: RE: Team lunch next Tuesday January 10th

I will try. I have some other conflicts that I will work to move around. Will confirm a little later in the week.
Thank you.

Sent with Good Work (www.blackberry.com)

From: Denny Rehberg <DRehberg@mercuryllc.com>
Date: Tuesday, Jan 03, 2017, 2:33 PM
To: Johnny Amaral <jamaral@westlandswater.org>
Cc: David Bernhardt <dbernhardt@bhfs.com>, Dennis Cardoza <dcardoza@foley.com>, Smith, Ryan A. <RSmith@BHFS.com>, Emmerson, Catherine <cemerson@sidley.com>
Subject: Re: Team lunch next Tuesday January 10th

Johnny,

Reservation is made at Capitol Hill Club, second floor. Tuesday the 10th at 12:00 pm for 12 (to be on the safe side) We can pare back as we hear from the rest of the D.C. Team.

Denny

.....
Mercury.

Denny Rehberg
Co-Chairman
(US Congressman 2001-2013) 300 Tingey Street SE | Suite 202
Washington, DC | 20003
202.261.4000 office | [REDACTED] mobile
www.mercuryllc.com

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Sent: Tuesday, January 3, 2017 10:38 AM
To: Johnny Amaral

Cc: David Bernhardt; Dennis Cardoza; Smith, Ryan A.; Catherine Karen
Subject: Re: Team lunch next Tuesday January 10th

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Denny Rehberg

Co-Chairman

(US Congressman 2001-2013) 300 Tingey Street SE | Suite 202

Washington, DC | 20003

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From: DCardoza@foley.com
Sent: Tuesday, January 3, 2017 12:41 PM
To: Johnny Amaral
CC: Denny Rehberg; David Bernhardt; Smith, Ryan A.; Catherine Karen
Subject: Re: Team lunch next Tuesday January 10th
Attachments: image001.png; image001.png

Johnny Jennifer and I are available if she is also invited. Dennis

Sent from my iPhone

Please excuse any auto correct errors

On Jan 3, 2017, at 1:44 PM, Johnny Amaral <jamaral@westlandswater.org<<mailto:jamaral@westlandswater.org>>> wrote:

Thanks Denny. Capitol Hill Club works for me. Please make a reservation. Westlands attendees are:

Tom Birmingham
Shelley Ostrowski
Don Peracchi
Judy Peracchi
William Bordeau
Johnny Amaral

From: Denny Rehberg [<mailto:DRehberg@mercuryllc.com>]
Sent: Tuesday, January 3, 2017 10:38 AM
To: Johnny Amaral
Cc: David Bernhardt; Dennis Cardoza; Smith, Ryan A.; Catherine Karen
Subject: Re: Team lunch next Tuesday January 10th

Yes, and I would offer Capitol Hill Club. I'm a member.

.....

[Mercury]<https://urldefense.proofpoint.com/v2/url?u=http-3A__www_mercuryllc.com&d=DgMFaQ&c=Rlm5WhGmPEr8srpDE4r86Q&r=yhMHKvJkYaWoH8bkmjCNM24pCPMnJRMu5cnOh9t0O7w&m=twdvhrFivuZv_YYB_I93BZK3-Yrz5CsTwBAb4w0twQ&s=acI4lBqgiUsmATfSGZwF1RAvzc6tpZAhFkQMHfutujQ&e=>

Denny Rehberg

Co-Chairman

(US Congressman 2001-2013) 300 Tingey Street SE

|

Suite 202

Washington

,

DC

|

20003

202.261.4000<tel:202.261.4000>

office

|

██████████<tel ██████████>

mobile

www.mercuryllc.com<https://urldefense.proofpoint.com/v2/url?u=http-3A_www_mercuryllc.com&d=DgMFaQ&c=Rlm5WhGmPEr8srpDE4r86Q&r=yhMHKvJkYaWoH8bkjCNM24pCPMnJRMu5cnOh9t0O7w&m=twdvhrFivuZv_YYB_I93BZK3-Yrz5CsTwBAb4w0twQ&s=acI4lBqgiUsmATfSGZwF1RAvzc6tpZAhFkQMHfutujQ&e=>>

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From: Johnny Amaral
Sent: Tuesday, January 3, 2017 12:39 PM
To: 'Denny Rehberg'
CC: 'David Bernhardt'; 'Dennis Cardoza'; 'Smith, Ryan A.'; 'Catherine Karen'
Subject: RE: Team lunch next Tuesday January 10th

Thanks Denny

From: Denny Rehberg [mailto:DRehberg@mercuryllc.com]
Sent: Tuesday, January 3, 2017 11:33 AM
To: Johnny Amaral
Cc: David Bernhardt; Dennis Cardoza; Smith, Ryan A.; Catherine Karen
Subject: Re: Team lunch next Tuesday January 10th

Johnny,

Reservation is made at Capitol Hill Club, second floor. Tuesday the 10th at 12:00 pm for 12 (to be on the safe side) We can pare back as we hear from the rest of the D.C. Team.

Denny

.....
Mercury.

Denny Rehberg
Co-Chairman
(US Congressman 2001-2013) 300 Tingey Street SE | Suite 202
Washington, DC | 20003
202.261.4000 office | [REDACTED] mobile
www.mercuryllc.com

On Jan 3, 2017, at 11:44 AM, Johnny Amaral <jamaral@westlandswater.org> wrote:

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Tom Birmingham
Shelley Ostrowski
Don Peracchi
Judy Peracchi
William Bordeau
Johnny Amaral

From: Denny Rehberg [<mailto:DRehberg@mercuryllc.com>]
Sent: Tuesday, January 3, 2017 10:38 AM
To: Johnny Amaral
Cc: David Bernhardt; Dennis Cardoza; Smith, Ryan A.; Catherine Karen
Subject: Re: Team lunch next Tuesday January 10th

Yes, and I would offer Capitol Hill Club. I'm a member.

.....
Denny Rehberg

Co-Chairman

(US Congressman 2001-2013) 300 Tingey Street SE | Suite 202

Washington, DC | 20003

202.261.4000 office | [REDACTED] mobile

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From: Smith, Ryan A.
Sent: Tuesday, January 3, 2017 12:37 PM
To: Denny Rehberg
CC: Johnny Amaral; Bernhardt, David L.; Dennis Cardoza; Catherine Karen
Subject: Re: Team lunch next Tuesday January 10th

I can attend. See you all then.

Ryan Smith
Shareholder
Brownstein Hyatt Farber Schreck
(202)322-4973

On Jan 3, 2017, at 2:33 PM, Denny Rehberg <DRehberg@mercuryllc.com> wrote:

Johnny,

Reservation is made at Capitol Hill Club, second floor. Tuesday the 10th at 12:00 pm for 12 (to be on the safe side) We can pare back as we hear from the rest of the D.C. Team.

Denny

.....
Denny Rehberg
Co-Chairman
(US Congressman 2001-2013) 300 Tingey Street SE | Suite 202
Washington, DC | 20003
202.261.4000 office | [REDACTED] mobile
www.mercuryllc.com

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Tom Birmingham
Shelley Ostrowski
Don Peracchi
Judy Peracchi
William Bordeau
Johnny Amaral

From: Denny Rehberg [<mailto:DRehberg@mercuryllc.com>]
Sent: Tuesday, January 3, 2017 10:38 AM
To: Johnny Amaral
Cc: David Bernhardt; Dennis Cardoza; Smith, Ryan A.; Catherine Karen
Subject: Re: Team lunch next Tuesday January 10th

Yes, and I would offer Capitol Hill Club. I'm a member.

.....
Denny Rehberg

Co-Chairman

(US Congressman 2001-2013) 300 Tingey Street SE | Suite 202

Washington, DC | 20003

202.261.4000 office | [REDACTED] mobile

www.mercuryllc.com

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As you know, there's a small group of Westlands staff and board members coming to DC next week for the hill reception on Tuesday the 10th. I'd like to have a lunch meeting in DC earlier in the day on the 10th somewhere on the Hill. A couple of questions:

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From: Denny Rehberg
Sent: Tuesday, January 3, 2017 12:33 PM
To: Johnny Amaral
CC: David Bernhardt; Dennis Cardoza; Smith, Ryan A.; Catherine Karen
Subject: Re: Team lunch next Tuesday January 10th

Johnny,

Reservation is made at Capitol Hill Club, second floor. Tuesday the 10th at 12:00 pm for 12 (to be on the safe side) We can pare back as we hear from the rest of the D.C. Team.

Denny

.....
Mercury.

Denny Rehberg
Cob Chairman
(US Congressman 2001-2013) 300 Tingey Street SE | Suite 202
Washington, DC | 20003
202.261.4000 office | [REDACTED] mobile
www.mercuryllc.com

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Thanks Denny. Capitol Hill Club works for me. Please make a reservation. Westlands attendees are:

Tom Birmingham
Shelley Ostrowski
Don Peracchi
Judy Peracchi
William Bordeau
Johnny Amaral

From: Denny Rehberg [<mailto:DRehberg@mercuryllc.com>]
Sent: Tuesday, January 3, 2017 10:38 AM
To: Johnny Amaral
Cc: David Bernhardt; Dennis Cardoza; Smith, Ryan A.; Catherine Karen
Subject: Re: Team lunch next Tuesday January 10th

Yes, and I would offer Capitol Hill Club. I'm a member.

.....
Denny Rehberg
Co-Chairman
(US Congressman 2001-2013) 300 Tingey Street SE | Suite 202
Washington, DC | 20003
202.261.4000 office | [REDACTED] mobile
www.mercuryllc.com

On Jan 3, 2017, at 11:35 AM, Johnny Amaral <jamaral@westlandswater.org> wrote:

As you know, there's a small group of Westlands staff and board members coming to DC next week for the hill reception on Tuesday the 10th. I'd like to have a lunch meeting in DC earlier in the day on the 10th somewhere on the Hill. A couple of questions:

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From: Johnny Amaral
Sent: Tuesday, January 3, 2017 11:45 AM
To: 'Denny Rehberg'
CC: 'David Bernhardt'; 'Dennis Cardoza'; 'Smith, Ryan A.'; 'Catherine Karen'
Subject: RE: Team lunch next Tuesday January 10th

Thanks Denny. Capitol Hill Club works for me. Please make a reservation. Westlands attendees are:

Tom Birmingham
Shelley Ostrowski
Don Peracchi
Judy Peracchi
William Bordeaux
Johnny Amaral

From: Denny Rehberg [mailto:DRehberg@mercuryllc.com]
Sent: Tuesday, January 3, 2017 10:38 AM
To: Johnny Amaral
Cc: David Bernhardt; Dennis Cardoza; Smith, Ryan A.; Catherine Karen
Subject: Re: Team lunch next Tuesday January 10th

Yes, and I would offer Capitol Hill Club. I'm a member.

.....
Mercury.

Denny Rehberg
Co-Chairman
(US Congressman 2001-2013) 300 Tingey Street SE | Suite 202
Washington, DC | 20003
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On Jan 3, 2017, at 11:35 AM, Johnny Amaral <jamaral@westlandswater.org> wrote:

As you know, there's a small group of Westlands staff and board members coming to DC next week for the hill reception on Tuesday the 10th. I'd like to have a lunch meeting in DC earlier in the day on the 10th somewhere on the Hill. A couple of questions:

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From: Bernhardt, David L.
Sent: Tuesday, January 3, 2017 11:40 AM
To: 'Johnny Amaral'
Subject: RE: Team lunch next Tuesday January 10th

yes

From: Johnny Amaral [mailto:jamaral@westlandswater.org]
Sent: Tuesday, January 03, 2017 1:37 PM
To: Bernhardt, David L.; Denny Rehberg; Dennis Cardoza; Smith, Ryan A.; Catherine Karen
Subject: Team lunch next Tuesday January 10th

As you know, there's a small group of Westlands staff and board members coming to DC next week for the hill reception on Tuesday the 10th. I'd like to have a lunch meeting in DC earlier in the day on the 10th somewhere on the Hill. A couple of questions:

1. Are you available?
2. Where should we have lunch?

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From: Denny Rehberg
Sent: Tuesday, January 3, 2017 11:38 AM
To: Johnny Amaral
CC: David Bernhardt; Dennis Cardoza; Smith, Ryan A.; Catherine Karen
Subject: Re: Team lunch next Tuesday January 10th

Yes, and I would offer Capitol Hill Club. I'm a member.



Denny Rehberg
Co-Chairman
(US Congressman 2001-2013) 300 Tingey Street SE | Suite 202
Washington, DC | 20003
202.261.4000 office | [REDACTED] mobile
www.mercuryllc.com

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2. Where should we have lunch?

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From: Johnny Amaral

Sent: Tuesday, January 3, 2017 11:37 AM

To: David Bernhardt; Denny Rehberg; Dennis Cardoza; 'Smith, Ryan A.'; Catherine Karen

Subject: Team lunch next Tuesday January 10th

As you know, there's a small group of Westlands staff and board members coming to DC next week for the hill reception on Tuesday the 10th. I'd like to have a lunch meeting in DC earlier in the day on the 10th somewhere on the Hill. A couple of questions:

1. Are you available?
2. Where should we have lunch?

From: DCardoza@foley.com
Sent: Monday, January 2, 2017 4:12 PM
To: Johnny Amaral; Birmingham Tom
CC: Smith, Ryan A.; Denny Rehberg; Bernhardt, David L.; Catherine Karen
Subject: Re: can you all do a call with Tom TODAY at 4pm EST?

Sorry I missed the call. I was out doing my 4miles per day walk that I am doing daily and missed your Email Johnny. Tom if you would like to talk I'm home tonight.

Warm regards,

Dennis
Sent from my iPhone

Please excuse any auto correct errors

On Jan 2, 2017, at 3:43 PM, Johnny Amaral <jamaral@westlandswater.org<<mailto:jamaral@westlandswater.org>>> wrote:

This is the number:

1 866 246 9512
Password 243586742#

From: Smith, Ryan A. [<mailto:RSmith@BHFS.com>]
Sent: Monday, January 2, 2017 12:22 PM
To: Johnny Amaral
Cc: Denny Rehberg; Dennis Cardoza; Bernhardt, David L.
Subject: Re: can you all do a call with Tom TODAY at 4pm EST?

I will be on.

Ryan Smith
Shareholder
Brownstein Hyatt Farber Schreck
(202)322-4973

On Jan 2, 2017, at 3:21 PM, Johnny Amaral <jamaral@westlandswater.org<<mailto:jamaral@westlandswater.org>>> wrote:
Bernhardt has confirmed

Anyone else?

From: Johnny Amaral [<mailto:jamaral@westlandswater.org>]
Sent: Monday, January 2, 2017 11:26 AM
To: Denny Rehberg; Dennis Cardoza; David Bernhardt; 'Smith, Ryan A.'
Subject: can you all do a call with Tom TODAY at 4pm EST?

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the benefit of the Foley & Lardner LLP client(s) represented by the Firm in the particular matter that is the subject of this message, and may not be relied upon by any other party.

From: Emmerson, Catherine
Sent: Monday, January 2, 2017 1:56 PM
To: Johnny Amaral; 'Smith, Ryan A.'
CC: 'Denny Rehberg'; 'Dennis Cardoza'; 'Bernhardt, David L.'
Subject: RE: can you all do a call with Tom TODAY at 4pm EST?

I can be on.

Sent with Good Work (www.blackberry.com)

From: Johnny Amaral <jamaral@westlandswater.org>
Date: Monday, Jan 02, 2017, 3:42 PM
To: 'Smith, Ryan A.' <RSmith@BHFS.com>
Cc: 'Denny Rehberg' <drehberg@mercuryllc.com>, 'Dennis Cardoza' <dcardoza@foley.com>, 'Bernhardt, David L.' <DBernhardt@BHFS.com>, Emmerson, Catherine <cemerson@sidley.com>
Subject: RE: can you all do a call with Tom TODAY at 4pm EST?

This is the number:

1 866 246 9512
Password 243586742#

From: Smith, Ryan A. [mailto:RSmith@BHFS.com]
Sent: Monday, January 2, 2017 12:22 PM
To: Johnny Amaral
Cc: Denny Rehberg; Dennis Cardoza; Bernhardt, David L.
Subject: Re: can you all do a call with Tom TODAY at 4pm EST?

I will be on.

Ryan Smith
Shareholder
Brownstein Hyatt Farber Schreck
(202)322-4973

On Jan 2, 2017, at 3:21 PM, Johnny Amaral <jamaral@westlandswater.org> wrote:

Bernhardt has confirmed

Anyone else?

From: Johnny Amaral [mailto:jamaral@westlandswater.org]
Sent: Monday, January 2, 2017 11:26 AM
To: Denny Rehberg; Dennis Cardoza; David Bernhardt; 'Smith, Ryan A.'
Subject: can you all do a call with Tom TODAY at 4pm EST?

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From: Johnny Amaral
Sent: Monday, January 2, 2017 1:44 PM
To: 'Smith, Ryan A.'
CC: 'Denny Rehberg'; 'Dennis Cardoza'; 'Bernhardt, David L.'; Catherine Karen
Subject: RE: can you all do a call with Tom TODAY at 4pm EST?

This is the number:

1 866 246 9512
Password 243586742#

From: Smith, Ryan A. [mailto:RSmith@BHFS.com]
Sent: Monday, January 2, 2017 12:22 PM
To: Johnny Amaral
Cc: Denny Rehberg; Dennis Cardoza; Bernhardt, David L.
Subject: Re: can you all do a call with Tom TODAY at 4pm EST?

I will be on.

Ryan Smith
Shareholder
Brownstein Hyatt Farber Schreck
(202)322-4973

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Bernhardt has confirmed

Anyone else?

From: Johnny Amaral [mailto:jamaral@westlandswater.org]
Sent: Monday, January 2, 2017 11:26 AM
To: Denny Rehberg; Dennis Cardoza; David Bernhardt; 'Smith, Ryan A.'
Subject: can you all do a call with Tom TODAY at 4pm EST?

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From: Smith, Ryan A.
Sent: Monday, January 2, 2017 1:22 PM
To: Johnny Amaral
CC: Denny Rehberg; Dennis Cardoza; Bernhardt, David L.
Subject: Re: can you all do a call with Tom TODAY at 4pm EST?

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Ryan Smith
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Bernhardt has confirmed

Anyone else?

From: Johnny Amaral [<mailto:jamaral@westlandswater.org>]
Sent: Monday, January 2, 2017 11:26 AM
To: Denny Rehberg; Dennis Cardoza; David Bernhardt; 'Smith, Ryan A.'
Subject: can you all do a call with Tom TODAY at 4pm EST?

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From: Johnny Amaral

Sent: Monday, January 2, 2017 1:22 PM

To: Denny Rehberg; Dennis Cardoza; David Bernhardt; 'Smith, Ryan A.'

Subject: RE: can you all do a call with Tom TODAY at 4pm EST?

Bernhardt has confirmed

Anyone else?

From: Johnny Amaral [mailto:jamaral@westlandswater.org]

Sent: Monday, January 2, 2017 11:26 AM

To: Denny Rehberg; Dennis Cardoza; David Bernhardt; 'Smith, Ryan A.'

Subject: can you all do a call with Tom TODAY at 4pm EST?

From: Bernhardt, David L.
Sent: Monday, January 2, 2017 12:43 PM
To: Johnny Amaral
Subject: Re: can you all do a call with Tom TODAY at 4pm EST?

Yes but I'm not sure I understand what is going on where this makes sense.

David Bernhardt

On Jan 2, 2017, at 2:30 PM, Johnny Amaral <jamaral@westlandswater.org> wrote:

Did Ryan fill you in?

From: Bernhardt, David L. [<mailto:DBernhardt@BHFS.com>]
Sent: Monday, January 2, 2017 11:29 AM
To: Johnny Amaral
Subject: Re: can you all do a call with Tom TODAY at 4pm EST?

Yes

David Bernhardt

On Jan 2, 2017, at 2:24 PM, Johnny Amaral <jamaral@westlandswater.org> wrote:

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From: Johnny Amaral
Sent: Monday, January 2, 2017 12:32 PM
To: 'Bernhardt, David L.'
Subject: RE: can you all do a call with Tom TODAY at 4pm EST?

Did Ryan fill you in?

From: Bernhardt, David L. [mailto:DBernhardt@BHFS.com]
Sent: Monday, January 2, 2017 11:29 AM
To: Johnny Amaral
Subject: Re: can you all do a call with Tom TODAY at 4pm EST?

Yes

David Bernhardt

On Jan 2, 2017, at 2:24 PM, Johnny Amaral <jamara1@westlandswater.org> wrote:

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From: Bernhardt, David L.
Sent: Monday, January 2, 2017 12:29 PM
To: Johnny Amaral
Subject: Re: can you all do a call with Tom TODAY at 4pm EST?

Yes

David Bernhardt

On Jan 2, 2017, at 2:24 PM, Johnny Amaral <jamaryl@westlandswater.org> wrote:

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From: Johnny Amaral

Sent: Monday, January 2, 2017 12:26 PM

To: Denny Rehberg; Dennis Cardoza; David Bernhardt; 'Smith, Ryan A.'

Subject: can you all do a call with Tom TODAY at 4pm EST?

From: Smith, Ryan A.
Sent: Monday, January 2, 2017 11:11 AM
To: DCardoza@foley.com; Denny Rehberg
CC: Johnny Amaral; Emmerson, Catherine; Bernhardt, David L.
Subject: RE: Call today?

Johnny?

Ryan Smith
Shareholder
Brownstein Hyatt Farber Schreck
1155 F. Street N.W., Suite 1200
Washington, DC 20004
Direct (202)747-0507

From: DCardoza@foley.com
Sent: Monday, January 2, 2017 1:08 PM
To: [Denny Rehberg](#)
Cc: [Smith, Ryan A.](#); [Johnny Amaral](#); [Emmerson, Catherine](#); [Bernhardt, David L.](#)
Subject: Re: Call today?

Me too

Sent from my iPhone

Please excuse any auto correct errors

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I'm on

.....

<image689000.png><https://urldefense.proofpoint.com/v2/url?u=http-3A__www_mercuryllc.com&d=DgMFaQ&c=Rlm5WhGmPEr8srpDE4r86Q&r=yhMHKvJkYaWoH8bkjCNM24pCPMnJRMu5cnOh9t0O7w&m=sAb0j7HXfoZmbf_DyrpEy2PQbkjHGq5C7kf9zYMx0fk&s=F-O5IK-0XXNaPNyYTujabGUD3JLKkJYO_2RiiSrOgnw&e=>>

Denny Rehberg
Co-Chairman

(US Congressman 2001-2013) 300 Tingey Street SE | Suite 202

Washington , DC | 20003

202.261.4000<<tel:202.261.4000>> office | [REDACTED]<<tel:202.261.4000>> mobile

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Sent: Monday, January 2, 2017 11:08 AM
To: Smith, Ryan A.
CC: DCardoza@foley.com; Johnny Amaral; Emmerson, Catherine; Bernhardt, David L.
Subject: Re: Call today?

I'm on

.....
Mercury.

Denny Rehberg
Co-Chairman
(US Congressman 2001-2013) 300 Tingey Street SE | Suite 202
Washington, DC | 20003
202.261.4000 office | [REDACTED] mobile
www.mercuryllc.com

On Jan 2, 2017, at 11:06 AM, Smith, Ryan A. <RSmith@BHFS.com> wrote:

I am on the call, but no one is on yet.

Ryan Smith
Shareholder
Brownstein Hyatt Farber Schreck
1155 F. Street N.W., Suite 1200
Washington, DC 20004
Direct (202)747-0507

From: DCardoza@foley.com
Sent: Monday, January 2, 2017 1:04 PM
To: [Johnny Amaral](mailto:JohnnyAmaral@westlandswater.org)
Cc: [Emmerson, Catherine](mailto:Emmerson@sidley.com); [Bernhardt, David L.](mailto:Bernhardt@sidley.com); [Denny Rehberg](mailto:DennyRehberg@mercuryllc.com); [Smith, Ryan A.](mailto:RyanA@smith.com)
Subject: Re: Call today?

Are we still on for the call? Dennis

Sent from my iPhone

Please excuse any auto correct errors

On Jan 2, 2017, at 11:16 AM, Johnny Amaral
<jamaral@westlandswater.org<<mailto:jamaral@westlandswater.org>>> wrote:

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Best,

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Westlands Water District

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Sent: Monday, January 2, 2017 11:07 AM
To: DCardoza@foley.com; Johnny Amaral
CC: Emmerson, Catherine; Bernhardt, David L.; Denny Rehberg
Subject: RE: Call today?

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Shareholder
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Cc: [Emmerson, Catherine](#); [Bernhardt, David L.](#); [Denny Rehberg](#); [Smith, Ryan A.](#)
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To: Johnny Amaral; Emmerson, Catherine
CC: Bernhardt, David L.; Dennis Cardoza; Denny Rehberg
Subject: RE: Call today?

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Subject: RE: Call today?

Ok understood. I will call when I land - my apologies you will need to repeat.

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From: Johnny Amaral <jamaral@westlandswater.org>
Date: Monday, Jan 02, 2017, 9:15 AM
To: Emmerson, Catherine <cemmerson@sidley.com>
Cc: David Bernhardt <dbernhardt@bhfs.com>, Dennis Cardoza <dcardoza@foley.com>, Denny Rehberg <DRehberg@mercuryllc.com>, Ryan Smith <RSmith@BHFS.com>
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